

LEGISLATIVE ASSEMBLY

Wednesday 12 May 2010

The Speaker (The Hon. George Richard Torbay) took the chair at 10.00 a.m.

The Speaker read the Prayer and acknowledgement of country.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

TREES (DISPUTES BETWEEN NEIGHBOURS) AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from 21 April 2010.

Mr GREG SMITH (Epping) [10.13 a.m.]: I lead for the New South Wales Liberals and The Nationals in this debate on the Trees (Disputes Between Neighbours) Amendment Bill 2010. This bill amends the Trees (Disputes Between Neighbours) Act 2006. Some of the more notable changes involve the extension of the operation of part 2 of the Act to trees situated on land zoned "rural-residential" and provision for the Land and Environment Court jurisdiction to hear disputes about high hedges that severely obstruct sunlight to a window of a dwelling on adjoining land or views from such a dwelling and for it to determine matters under the Dividing Fences Act 1991 in certain circumstances where a related application has been made under the Act.

The bill makes it clear that an application for an order under part 2 of the Act can still be made following the removal of the tree that caused the damage or injury on which an application is based. It allows a local council to recover the amount prescribed by the regulations as an administrative fee where it enforces an order under the Act. This is in addition to the cost of carrying out the work required to enforce the order and enables the local council to register an order for costs as a charge on the land concerned. The bill enables the immediate successor in title to make an application to benefit from certain orders made under part 2 of the Act and it provides for plants that are vines to be treated as trees for the purposes of the principal Act.

The Trees (Disputes Between Neighbours) Act 2006 created a new procedure in the Land and Environment Court for resolving disputes about urban trees which are causing damage to property or which pose a risk of injury. Previously disputes of this kind could be resolved only by suing for the tort of nuisance either in the Local Court, the District Court or the Supreme Court. The Trees (Disputes Between Neighbours) Act 2006 was the subject of a statutory review and the report was handed down in November 2009. This bill implements the recommendations contained in that report.

Dealing with the bill in more detail, section 3 (1A) amends the reference to land to include land within a zone designated "large lot residential" and inserts a regulation-making power. Section 4 is amended to include, in the operation of part 2, trees situated on land zoned "rural-residential land". Section 4 (4) is added to section 4 to provide that a tree removed following damage or injury is still taken to be situated on the land for the purposes of a part 2 application. That amendment appears to be in response to the case of *Robson v Leischke* [2008] NSWLEC 152, where on the Queen's birthday weekend in June 2007 a tree fell over in a storm and damaged a neighbour's property. At paragraph 144, the trial judge in the Land and Environment Court found that because section 4 (3) uses the present tense to describe the requirement that a tree be situated on land, namely, "a tree ... is situated" on land, if the tree has been wholly removed it could not be said that there is "a tree to which this Act applies that is situated on adjoining land". That is referred to in section 7.

Section 5 is amended to provide that no action may be brought in nuisance as a result of damage caused by a tree to which part 2 applies or as a result of an obstruction of sunlight to the window of a dwelling or of a view from a dwelling caused by trees to which part 2A applies. Section 6, which provides that an order under

part 2A does not authorise the carrying out of work or activity regulated under another Act, is amended to include part 2A wherever there is reference to part 2. A reference to "trees that cause or are likely to cause damage or injury" in the heading to part 2 is also inserted. Section 11 (2) is omitted from section 11. Subsections (b1), (b2) and (b3) are inserted in section 12B to provide additional matters for the court to consider in a part 2 application. An amendment to section 14 provides that there is no requirement that the court supply a copy of an order dismissing an application to a local council or the Heritage Council.

Furthermore, part 2A is inserted into the Act. This part introduces a new part dealing with court orders relating to high hedges that obstruct sunlight or views. Section 14A provides that this part applies only to groups of two or more trees that are planted so as to form a hedge and rise to a height at least 2.5 metres above existing ground level. This part does not apply to trees on land within a zone designated "rural-residential" or having the substantial character of that zone or Crown land. Section 14B provides that an owner of land may apply to the court for an order to remedy, restrain or prevent the severe obstruction of sunlight to a window of a dwelling or any view from a dwelling on the land if the obstacle occurs as a consequence of trees on adjoining land.

New section 14C states that at least 21 days notice of any application for an order must be given by the applicant to the owner of land on which the trees are situated and to any relevant authority entitled to appear, or any other person the applicant has reason to believe will be affected by the order. By virtue of new section 14 (2) and (3), the court may direct further notices to be given, or may waive or vary the requirement to give notice. New section 14D sets out the jurisdiction of the court to make orders. In summary, with the exception of an order that requires the payment of compensation, the Land and Environment Court is given jurisdiction to make such orders as it thinks fit to remedy, restrain or prevent a relevant obstruction. New section 14E sets out matters about which the court must be satisfied before making an order. The court must not make an order unless it is satisfied that the applicant has made a reasonable effort to reach agreement with the owner of the land on which the trees are situated and, unless notice has been waived, that the notice provisions in section 14C have been complied with.

The provisions of new section 14 (2) also state that the Land and Environment Court must be satisfied that the trees are severely obstructing sunlight to a window or a view of the dwelling concerned, and the severity and nature of the obstruction is such that the applicant's interests outweigh the undesirability of disturbing or interfering with the trees. New section 14F sets out matters to be considered by the court and include, among a number of considerations, the location of the trees, whether they existed prior to the dwelling concerned, whether they grew to a height of 2.5 metres or more during the applicant's period of ownership, whether the trees have any historical, cultural, social or scientific value, or contribute to the local ecosystem and biodiversity, and any other matters the court considers relevant. New section 14G provides that a local council or the Heritage Council may appear before the court in certain circumstances. New section 14H requires that the court must provide those organisations with a copy of any order, other than for dismissal of proceedings.

The Minister is to review part 2A after two years and a report is to be provided to Parliament within three years. Failure to comply with an order under part 2A attracts a maximum penalty of 1,000 penalty points. New subsection (1A) will be inserted after section 16 (1) to provide that immediate successors in title are bound by an order under part 2A. New section 16A is inserted to provide that an immediate successor in title is to benefit from certain tree orders. New section 17 provides that the local council may enter land and carry out work in accordance with an order when the owner has failed to carry out such work. A council may then recover from the owner of the land administrative costs and reasonable costs incurred in performing the work. New section 17A provides that a council may register a judgement debt as a charge on land.

Schedule 2 provides for the amendment of other Acts and inserts a new section 13A into the Dividing Fences Act relating to the jurisdiction of the Land and Environment Court. That court has jurisdiction to hear and determine matters under the Dividing Fences Act 1991 in certain circumstances in relation to a tree that has caused, is causing, or is likely to cause in the near future, damage to a dividing fence, or a tree that is part of a dividing fence and that has caused, is causing, or is likely to cause in the near future damage to the applicant's property or is likely to cause an injury to any person. It is interesting that this new section does not seem to relate to past injury. A consequential amendment is made to the Land and Environment Court Act. Item [2.3] of schedule 2 provides that the Native Vegetation Act 2003, which prohibits the clearing of native vegetation except in accordance with that Act, does not apply to any clearing of native vegetation in accordance with an order under the principal Act. Item [2.4] of schedule 2 amends the Trees (Disputes Between Neighbours) Regulation 2007 so that any plant that is a vine is considered to be a tree for the purposes of the principal Act.

The bill will implement the recommendations of the statutory review committee. The introduction of a new part 2A into the Act, enabling the Land and Environment Court to deal with high dense hedges, will

provide a cost-efficient method of resolution of disputes relating to such issues. Similarly, permitting the Land and Environment Court to hear and determine matters arising under the Dividing Fences Act 1991 in the context of a tree dispute will be cost efficient.

Yesterday the Law Society provided a submission to which I now refer. In the view of the society, the concept of "view" in new section 14B (b) is far too wide and should be deleted. The society also believes that the factors set out in new section 14F, namely whether the trees existed prior to the dwelling subject of an application and whether the trees grew to a height of 2.5 metres during the time that the applicant owned the land, should be threshold questions. The society is of the view that the significant changes stated in the bill may have the effect of encouraging expensive litigation and clogging the court with applications. In the light of this, the society has suggested that the amended provisions should be the subject of an automatic repeal at the expiration of two years so that their impact may be properly considered. Notwithstanding those well-argued points, the New South Wales Liberals and The Nationals believe that this amending bill generally improves the scheme under the principal Act, and accordingly do not oppose the bill.

Debate adjourned on motion by Ms Sonia Hornery and set down as an order of the day for a later hour.

STANDING COMMITTEE ON NATURAL RESOURCE MANAGEMENT (CLIMATE CHANGE)

Membership

Motion by Mr John Aquilina agreed to:

That Tanya Rachelle Gadiel be appointed to serve on the Standing Committee on Natural Resource Management (Climate Change) in place of Karyn Lesley Paluzzano, resigned.

TREES (DISPUTES BETWEEN NEIGHBOURS) AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Ms SONIA HORNER (Wallsend) [10.27 a.m.]: The Trees (Disputes Between Neighbours) Amendment Bill 2010 will amend the 2006 Act to provide a simple, inexpensive and accessible process for resolving neighbour disputes about trees. The cost of making an application to the Land and Environment Court concerning a tree is a comparatively low \$197 for individuals or \$394 for corporations. People who experience financial hardship, such as pensioners, are able to seek a fee waiver. That is really important. As a former councillor on the Newcastle City Council, I dealt with many disputes concerning trees. One of the concerns people expressed was that they could not afford to pay for legal support in their efforts to have a tree cut down. Moreover, this legislation will mean that there is no need for people to retain the services of a lawyer or an arborist, which also makes the process all the more accessible. That is why the Act has proved to be exceptionally popular. The bill seeks to make the Act even better.

One of the most significant amendments in the bill is that it will give the Land and Environment Court the power to resolve neighbour disputes about high hedges that severely block sunlight or views. When the Law Reform Commission examined tree disputes in its report, "Neighbour and Neighbour Relations", the commission recommended that a remedy should be provided when a person's enjoyment of their property has been severely affected by a neighbour's tree that blocks out sunlight or views. However, that recommendation was not taken up when the Trees (Disputes between Neighbours) Bill was introduced in 2006. At that time, the Government was conscious that the legislation was breaking new ground and considered it preferable to allow some time for assessment of the new legislation before considering if, and how, the scheme might be applied in situations that do not involve damage to property or risk of injury.

In light of the considerable number of submissions addressing this issue in the two-year statutory review of the Act, the Government is moving to address community concerns about neighbours' trees that severely block sunlight or views. However, the new jurisdiction of the court will be limited to the most problematic cases that were the focus of submissions to the review. That is, high, denser hedges on adjoining properties that are wall like, in effect, and severely restrict sunlight to windows or views from dwellings. Neighbourhood disputes over these sorts of features are becoming increasingly common, and there have even been reports of residents growing "spite" hedges to deliberately block a neighbour's view.

For the first time, neighbours whose sunlight or view has been severely impacted by a high hedge will be able to apply to the court for relief. However, it is important to note that these new laws will not create a right to a view or a right to sunlight. The court will balance the competing rights of neighbours to enjoy their property considering a range of factors including privacy, shade and heritage values. The importance of maintaining the existence and health of urban vegetation will also be a key consideration. I congratulate the Government on this important new aspect of the legislation and commend the bill to the House.

Mr GEOFF PROVEST (Tweed) [10.30 a.m.]: The Trees (Disputes Between Neighbours) Amendment Bill 2010 amends the Trees (Disputes Between Neighbours) Act 2006 to implement recommendations arising from the statutory review of the principal Act. The bill gives the Land and Environment Court jurisdiction to hear disputes about high hedges that severely obstruct sunlight to a window of a dwelling on adjacent lands or views from such dwelling. It also gives the court jurisdiction to hear and determine matters under the Dividing Fences Act 1991 in certain circumstances where a related application has been made under the principal Act. It also enables the successor in title to an applicant to benefit from certain orders made under part 2 of the principal Act.

The Trees (Disputes Between Neighbours) Act 2006, commonly known as the trees Act, created a new procedure in the Land and Environment Court for resolving disputes about urban trees causing damage to property or that pose a risk of injury. Previously, disputes of that kind could only be resolved by suing in the tort of nuisance in the Local Court, District Court or Supreme Court. In the Tweed I have become involved in a number of disputes over trees. As the size of the Tweed increases and housing estates are developed, trees that grow across boundaries will obviously be a safety risk. The previous Act was very onerous to navigate, particularly for elderly people—I found it quite difficult—and it caused a lot of frustration in our local communities. We have had instances of trees being vandalised because they were blocking views. Tweed Shire Council has taken action to prevent such vandalism by erecting high barricades up to 10 metres high and 30 metres long and putting up signs. This has led to feuds between neighbours. If a tree dies in front of your place, you are assumed to be the guilty party.

I would like the Parliamentary Secretary in his reply to inform the House who determines that a tree poses a safety risk and, if a tree falls, what impact the new Act will have on insurance claims. The bill contains many terms. What constitutes a high hedge? Who determines what is a nuisance tree? What is the definition of a view? I will not oppose this bill. It contains many good elements. The arguments for the bill are that it implements the recommendations of the statutory review committee; it introduces a new part 4A, as the shadow Attorney General mentioned, into the trees Act; it enables the Land and Environment Court to deal with high-density hedges; and it will provide a cost-effective method of resolving disputes relating to such issues. This is an emotive issue for the community. Obviously, a large percentage of people would like to see more trees. They may impact on views and on values, but my chief concern is safety. As we know, when limbs fall off trees they can damage cars and injure people. Anything we can do to prevent that from occurring requires our backing.

I note the consultation with the Law Society and other people in the industry. I had brief discussions with professional tree loppers who are often the meat in the sandwich when neighbours start to remove trees under the trees Act. At times councils are slow to take action under the Tree Preservation Act or to deal with some of these issues. Hopefully this legislation will change that. I take on board comments by other members that the Act should be subject a review period to ensure it is achieving its goals. Once again, I am 100 per cent for the Tweed.

Mr NINOS KHOSHABA (Smithfield) [10.36 a.m.]: I support the Trees (Disputes Between Neighbours) Amendment Bill 2010. The amendments in this bill respond to issues raised in the two-year statutory review of the Trees (Disputes Between Neighbours) Act. This review involved seeking submissions from interested stakeholders and members of the public. The review received 231 submissions. Most were from private individuals and community groups. Submissions were also received from Government Ministers, the Land and Environment Court of New South Wales, local councils and professional associations. The high number of submissions to the review is a clear indication of the significance of laws relating to trees and neighbour relations to the community. The key policy objective of the Trees (Disputes Between Neighbours) Act is to provide a simple, inexpensive and accessible process for the resolution of disputes about trees between neighbours.

The review of the Act confirmed that this policy objective remains valid, having regard to mediation statistics regarding tree disputes, the number of tree matters filed in the Land and Environment Court, the level

of public interest generated by the review and the nature of submissions to the review. The review also concluded that the dispute resolution procedure established by the Act, and implemented by the Land and Environment Court, is generally meeting the objectives of the legislation. However, several submissions highlighted the opportunity for technical improvements to the legislation, and the report on the review suggested some minor amendments to improve procedures. Changes to support the enforcement of court orders were also put forward.

The report also recommended the creation of a new, strictly limited jurisdiction for the Land and Environment Court to consider extreme cases where hedges, rather than individual trees, severely obstruct views or sunlight to a dwelling. Finally, the report on the review recommended that the trees Act could be extended to land zoned rural-residential, but only in respect of trees that are causing damage or at risk of causing injury. The Government considered and accepted these recommendations. This bill makes amendments to implement legislative recommendations arising from the review. I am pleased to support the bill.

Mr RAY WILLIAMS (Hawkesbury) [10.39 a.m.]: I will make a brief contribution to the Trees (Disputes Between Neighbours) Amendment Bill 2010. The area I represent has vegetation across the Hills and the Hawkesbury shires, and residents regularly contact the council and me about disputes involving trees. Views do not necessarily come into the equation. Problems arise when neighbours who perceive that trees in close proximity to their homes may put their family and their property at risk have problems breaking through the barriers and getting council approval to remove such trees. I hope the amendments in the bill will alleviate some of those problems. It is very frustrating to see some of the environmental constraints put in place by councils.

Everyone in my electorate and across our shires loves and supports the environment and replenishes it. The revegetation across much of my electorate in the past 40 years has been extraordinary. Many areas that were largely market gardens or horse studs—everybody had a horse in their backyard—have changed dramatically over the past three or four decades to the point where the natural vegetation, in particular the vegetation on the Cumberland Plain, has been greatly replenished. However, the proximity of trees to houses on properties as a result of that replenishment has caused problems. I have received many, many representations from people across my electorate, from Baulkham Hills to Hornsby and Hawkesbury, who are concerned that they cannot get council approval to remove trees. I hope that I will be able to approach councils with this legislation and utilise it as a means of alleviating the problems people have raised.

Although we are talking about disputes between neighbours, it is worthwhile noting concerns I raised yesterday in a private member's statement about the safety of specific roads surrounded by significant vegetation. I refer to heavy vegetation of gum trees on the Bells Line of Road, which is the responsibility of the Roads and Traffic Authority. Over the past decade traffic on that road has increased. Branches fall from the gum trees on a regular basis and on numerous occasions cars have hit branches or driven over branches in the dark or in a fog—it was only a matter of time before there was a serious accident. A year ago Jeff Allatt of Berambing wrote off his car after colliding with a fallen branch.

The tree the branch had fallen from had been identified as having deteriorated but the Roads and Traffic Authority would not remove the tree. Indeed, the Roads and Traffic Authority had been asked to remove several trees and branches. I believe the Roads and Traffic Authority was negligent in its approach to removing those trees. Jeff Allatt, who collided with a fallen branch and wrote off his vehicle, has not worked for the past 12 months. I have taken up his case. I have written to the Minister and I have raised the matter in this House on several occasions.

The Roads and Traffic Authority has sought to pass the buck to Hawkesbury City Council. However, the Roads and Traffic Authority, in its own words and in answers to my questions, is responsible for trees that are five metres from the edge of the road. This tree was inside those five metres: It was only four metres from the edge of the road. I will fight on behalf of that resident, that neighbour—I guess we are all neighbours. Many neighbours in the area are concerned about the Bells Line of Road. Hopefully, this legislation will alert the Roads and Traffic Authority to its responsibilities to those who live on the Bells Line of Road and encourage it to remove trees from the Bells Line of Road where appropriate.

Mr DAVID HARRIS (Wyang—Parliamentary Secretary) [10.42 a.m.]: Like most local members, I deal with disputes about trees on a fairly regular basis, so I am pleased to make a short contribution to debate on the amendments in the Trees (Disputes Between Neighbours) Bill 2010. The Trees (Disputes Between Neighbours) Act 2006 partially replaced the common law of nuisance by creating a new procedure for resolving neighbour disputes about trees in certain residential and industrial zonings. The Act enables the Land and

Environment Court to make orders to remedy, restrain or prevent damage to property, or to prevent injury to a person, caused by trees on neighbouring land. When introducing the legislation in 2006, the Government was mindful that the Trees (Disputes Between Neighbours) Act was landmark legislation. It therefore made the legislation the subject of a review in two years, instead of the usual five years. The statutory review of the Act was completed last year, and the Government has accepted all of the recommendations of the review.

This bill implements the legislative recommendations of the statutory review. In response to a large number of submissions made to the review, the bill gives the Land and Environment Court a new jurisdiction to hear disputes between neighbours about high hedges that severely obstruct sunlight to a window of a dwelling or views from a dwelling. The bill also gives the Land and Environment Court jurisdiction to hear and determine matters under the Dividing Fences Act 1991 in certain circumstances where a related application has been made under the trees Act. This will mean that related issues that arise under both Acts can be heard and disposed of in a single set of proceedings. The bill also extends the operation of part 2 of the trees Act, which relates to trees that are causing, or are likely to cause, damage to property or risk of injury, to land zoned rural-residential.

This is, again, in response to submissions made to the review. To encourage the enforcement of court orders made under the Act, the bill enables local councils to recover an administration fee where they enforce an order, and to register an order for their enforcement costs as a charge on the tree owner's land. The bill also enables an applicant's immediate successor in title to enforce orders made in relation to trees that are causing, or are likely to cause, damage to property or risk of injury to a person. The bill also makes technical amendments to close potential loopholes and improve procedures. For instance, the bill makes it clear that an application to the Land and Environment Court may still be made following the removal of the tree that caused the damage or injury on which the application is based. Finally, the bill also prescribes "vines" as a tree for the purposes of the trees Act. I congratulate the Government on bringing forward this bill, which makes important improvements to the trees Act.

Mr ROB STOKES (Pittwater) [10.45 a.m.]: I shall make a brief contribution to debate on the Trees (Disputes Between Neighbours) Amendment Bill 2010. Like other members, I recognise that trees are an important part of the fabric of our urban communities. For example, the spotted gum forests that are spread across my community of Pittwater are an important and defining part of that beautiful part of our State. Trees certainly evoke passion—passion on the part of people who love them and the amenity they provide.

Mr Barry Collier: They evoke passion among lumberjacks, too.

Mr ROB STOKES: As the Parliamentary Secretary says, they evoke passion among lumberjacks, too. Trees evoke passion among those who see, as a concomitant of their property ownership rights, the right to destroy whatever trees might be on their property as well. Those passions need to be balanced, and we need a proper venue in which the conflicts evoked by those passions can be resolved. When I was a baby solicitor I remember that my first ever instructions related to a tree dispute in Pittwater. A couple wanted to remove a spotted gum tree from their property in Clareville. I looked into the matter and I explained to them that it was against the law for them to remove the tree. At that point I learnt an important lesson about the practice of law: If you give your clients advice they do not want to hear they do not pay your bill. I am happy to report that they went to another solicitor, who gave them different advice; they were all taken to court and ended up paying a hefty fine.

Ms Clover Moore: I hope they lost.

Mr ROB STOKES: They did; they lost. The lopper was fined as well.

Mr Barry Collier: What about the solicitor?

Mr ROB STOKES: I do not know what happened to the solicitor. I note the matters that commissioners of the court must take into account when determining whether a tree should be removed, pruned or dealt with in some way because of a substantial loss of sunlight or views. It is important to remember that in many cases the trees were here long before we were. Trees are living organisms. When we are dealing with a tree we are dealing with something that is alive. We are dealing with something that may have been here well before human settlement. The problem from the tree's perspective might well be the settlement, not the other way around. It is important to keep that in mind in these kinds of debates. Nevertheless there is a need for flexibility and a valve for the resolution of the passions to which other members have referred. To that extent I do not oppose the addition of part 2A in the Act to allow the court flexibility to act when a tree is causing substantial interference. That is important.

A tree must be causing substantial interference with sunlight to a window of a dwelling, not sunlight to a dwelling per se. It must be interfering substantially with sunlight to a window, which is sensible, and with views. Other members have referred to what constitutes a view. Again, I understand there is some flexibility in terms of the definition of a view. The commissioner needs flexibility to determine what is a view in the circumstances of a case.

I raise another matter on behalf of my community. A lot of my constituents are very concerned about what happens to a person who illegally lops or illegally poisons a tree. In many cases the fines currently imposed by the courts do not act as a deterrent, even if the prosecution of someone who has chopped down a tree is successful. The added value to the land of removing vegetation is in the order of a couple of hundred thousand dollars, so a \$10,000 fine is meaningless: The fine is no deterrent. I know that concern is outside the ambit of this bill, but as the Land and Environment Court seems to deal with tree disputes very well and the Environmental Planning and Assessment Act is not working well in deterring unlawful tree clearing, I suggest that the Government integrate all these matters under the one jurisdiction in the Land and Environment Court and give the commissioners more flexibility to deal with people who illegally clear trees. Because that jurisdiction is working well, we should consider ways to extend it.

It is clear throughout the debate that trees will become a more important part of the fabric of our neighbourhoods and our communities, particularly as human settlement becomes more dense. Now is the time to act to ensure that the way we deal with disputes about trees and the illegal clearing of trees is brought under the one jurisdiction and integrated so that the people who make decisions about disputes also make decisions about unlawful clearing.

Ms CLOVER MOORE (Sydney) [10.52 a.m.]: The Trees (Disputes Between Neighbours) Amendment Bill 2010 will enable the Land and Environment Court to hear disputes about high hedges on private property that block a neighbour's sunlight or views as well as disputes about trees that damage a dividing fence. The court can already hear disputes about trees that could damage a neighbour's property or injure them following legislation passed in 2006. I welcome City of Sydney staff reports that the 2006 legislation has had positive outcomes for tree canopy, not just on private property but also on council street trees through new court precedents, including a determination that natural processes like leaf and fruit drops, and bird droppings do not warrant orders to remove or lop trees.

I welcome and support the comments of the member for Pittwater and his suggestion to bring all tree issues under the one jurisdiction. That is a positive proposal and should be considered by the Government. I understand the Act is being applied appropriately, currently with principles that aim to protect trees, and that it is not being used for trivial and vexatious matters. Trees are vital to the urban setting. This legislation is considered in the context of Australia being the driest continent and also the most urbanised country; 65 per cent of the community lives in urban areas. We have managed to remove two-thirds of our canopy over the past 200 years. We must be mindful of the importance of our tree canopy to the environment. Trees provide shade, intercepting up to 90 per cent of the summer sun, with one tree equivalent to five air conditioners running for 20 hours a day.

Trees provide immense environmental benefits. They are natural carbon sinks. They absorb carbon dioxide from our atmosphere, and play an important role in slowing global warming. They entrap airborne particles and pollutants such as sulfur dioxide, ozone and carbon monoxide, and trap toxic particles emitted by diesel exhausts. Tree roots keep the soil porous so that it absorbs more stormwater. Trees reduce the amount of toxins in stormwater that go to our harbour and oceans. Trees promote biodiversity, providing habitat for wildlife, particularly native birds, which would otherwise not survive in the intensively developed urban environments where the majority of us live.

Trees make our city beautiful. The canopy provides a human scale in contrast with the large developments that tower over parts of the inner city. Without trees the urban setting can be bleak and soulless. Trees help establish the character of an area. The City of Sydney has about 28,500 street trees and over the past five years we have planted more than 5,000 advanced street trees to add to our tree canopy. I am slightly envious of Singapore, which has a tree canopy of 47 per cent. It also has the climate to make it easy to achieve this. The canopy in Sydney is under 20 per cent and of course this is in the context of Australia being such a dry continent. However, the City of Sydney is setting very high standards to dramatically increase that canopy. It will not just be through street trees but through planning policies for roof gardens, balconies and community gardens, about which we are quite excited.

This leads to the issue of views and, unfortunately, some people prefer to keep their views rather than let neighbourhood trees grow and contribute to the collective urban forest. I think it is appalling that some people are willing to poison trees that benefit the wider community just to protect their view. I have said to people in the Glebe area that an angophora can, in fact, frame and add beauty to a view. People should see their view in the context of the benefit that trees provide to it. The City of Sydney does not remove trees to maintain views. Our position is that trees contribute to the greater good and should take precedence over the views of a few.

I am concerned that under this bill the Land and Environment Court will be able to issue orders to remove or lop a tree that forms part of a high hedge based on its interference with a neighbour's view. Although the bill specifies a number of considerations before the court can issue an order, including the severity of the obstruction, order of occupancy and whether the trees are deciduous, I hope that this is about providing a path to resolve disputes rather than setting a new framework for the progressive removal of urban trees solely to protect an individual view. I welcome continued exclusion of council trees under the bill, which, given the large number of trees owned by most councils, could impact significantly on that urban canopy. Most councils have responsible tree management systems in place and they respond to community concerns. Trees are essential to urban amenity and I hope that this legislation will continue to protect them.

Ms KATRINA HODGKINSON (Burrinjuck) [10.57 a.m.]: I speak on the Trees (Disputes Between Neighbours) Amendment Bill 2010. I assure the member for Sydney that New South Wales is a much nicer place to live than Singapore climate wise. We have the beautification of trees in this lovely city and right across the State. They serve a valuable purpose in both rural and metropolitan areas. I endorse the comments of the member for Tweed about what constitutes a view. Views come in all shapes and sizes. A view can be something that adds value to a property in real estate terms or a view can be personal. Some people might like views of houses while others like views of oceans; it could be a view of anything because everyone is different. Is there a descriptor of what constitutes a view according to this bill? I have a little concern about the extension of the operation of part 2 of the principal Act to trees situated on land zoned rural-residential. I have received advice, which states:

Section 14A provides that this Part applies only to groups of 2 or more trees that are planted so as to form a hedge and rise to a height of at least 2.5 metres above existing ground level. This part does not apply to trees situated on land within a zone designed "rural-residential" or having the substantial character of that zone, or crown land.

I ask the Parliamentary Secretary in reply to outline what size acreage is being considered as rural-residential. A lot of subdivision is taking place in some of the towns in the Burrinjuck electorate. Gundaroo, Collector, Yass and Murrumbateman are all experiencing significant growth because of their proximity to Canberra and the desire of public servants in particular but certainly other members of the Canberra community who want a tree change. Crookwell, Gunning and all the towns and villages in that surrounding area could be included in that mix.

We have rural-residential blocks that differ in size, depending on whether they were concessional allotments and how they have been distributed and sold. They could be anywhere from five acres to 40 hectares—which is 100 acres on the old scale—or even 200 acres. It depends on a variety of factors and the local government concerned. How will neighbourhood dispute legislation relate to those people? A row of cypress leylandii is often planted quite close to a boundary, on a boundary, or even surrounding a boundary, as happens on a number of properties in the Taralga region, to act as a windbreak, a shelter for stock—it is very important for beef and sheep to have shelter—and for noise control. I know that freeway noise impacts on many people who live along the road to Albury, and trees or hedges are planted to provide noise abatement. There are many different reasons why people plant trees.

When I read this bill I reflected on all the issues that arose years ago as a result of State environmental planning policy No. 46, which penalised farmers for wanting to remove vegetation in order to plant crops to feed this nation. Yet we are now debating a bill that will legalise the removal of trees that obstruct a view. I can appreciate how this legislation applies in metropolitan areas when a person has bought a property with a view and then something is built or planted in front to obstruct that view, which gives rise to a genuine neighbourhood dispute. I agree that for that purpose the bill is genuine but I want to know why it would apply in the circumstances I have outlined in my electorate. I am also concerned about people complaining about hedges grown along the perimeter of a property that obstruct their view as they drive by. I know that such complaints have been made in the past. I am of the strong belief that it is none of the motorist's business whether a landowner plants trees, hedges or rows of trees on their property. Surely it is up to the property owner to decide whether they plant trees—particularly if their landholding is reasonably substantial—even if the land has a rural-residential zoning. I would like clarification of that matter.

I note that the bill makes a consequential amendment to the Land and Environment Court Act. Schedule 2.3 provides that the Native Vegetation Act 2003, which prohibits the clearing of native vegetation except in accordance with that Act, does not apply to any clearing of native vegetation in accordance with an order under the principal Act. The member for Pittwater said quite validly that all such legislation will come under the one roof rather than people having to shuffle between different pieces of legislation in relation to trees. They are my principal points in relation to the bill. I agree that in high-occupancy and metropolitan areas the legislation will be useful but again I stress that in true rural-residential areas, where we are seeing increasing numbers of subdivisions, we need clarification on behalf of people who want more privacy, noise abatement, wind control and shelter for their stock.

Ms PRU GOWARD (Goulburn) [11.04 a.m.]: I support the Trees (Disputes Between Neighbours) Amendment Bill 2010 with a great deal of reluctance. I note some of the advantages of the legislation. This bill provides for the resolution of disputes about high hedges with respect to the blocking of sunlight or views and also provides for councils to recover some of the administrative costs from recalcitrant members of the community who refuse to pay for the removal of trees that have been the subject of a court order, leaving it to councils. However, because councils are able to recover only the add-on costs of removing trees and not the administrative costs, they have understandably been very reluctant to do so as it means a net loss of income for them.

I note that a number of submissions raised concerns about the type of zoning to which the Act initially applied. These were not considered to be sufficiently broad and have now been extended. This is of particular relevance to the electorate of Goulburn because of the prevalence of rural-residential land. The bill extends the application of the Act to trees on land that is now zoned rural-residential or an equivalent land-use zone, which is a very welcome addition. But it does not go far enough. At the moment the provisions apply only to disputes about trees that have caused, are causing or are likely to cause damage to property or injury. It will not apply to the new high hedges jurisdiction.

That is of some concern in the Southern Highlands and will be cold comfort to many residents in the Goulburn electorate who, over the past three years, have contacted me about cypress leylandii, in particular, and the enormously high hedges that can be grown very quickly between the boundaries of properties, throwing the gardens of neighbours into shadow. Jan Heinke, a resident in my electorate, has championed the restriction of cypress leylandii hedges in the rural landscape for some years now. A delegation from the Wingecarribee Shire Council and I approached Mr Frank Sartor when he was the Minister for Planning and made the case that cypress leylandii hedges were an incredible imposition on the landscape. It is not just an imposition on a neighbour driving by but the beauty of the landscape is denied to visitors and anybody else in the area. Some roads in my electorate have become long, dark green tunnels from which little can be seen except the edge of the hedge.

Neighbours whose properties border cypress leylandii hedges should be given the opportunity to object to this type of hedge. I note that that is specifically not allowed in the new bill. Those hedges, in only a few years, have the potential to throw not just a house or a window, as is currently stipulated in the Act for urban dwellings, or garden into shade but to permanently block a view and essentially reduce the value and amenity of the property. Unfortunately, the Department of Planning has refused to assist the Wingecarribee Shire Council to pass any bylaws as part of the new local environmental plan that might restrict high hedges in rural areas and this amendment bill was really the last hope for residents concerned about the impact of cypress leylandii on their gardens, for example. People move to the Southern Highlands because they can buy slightly larger blocks than they can afford in the city. Their vegetable and flower gardens are then put in permanent shade and their soil is depleted by the rapid growth of these extraordinary trees. Their vegetable and flower gardens then fail to thrive and the once sunny backyard very quickly ends up growing mushrooms rather than tomatoes because it is essentially a garden in the dark.

While the council may have been active in arguing with the Department of Planning for a change to the local environmental plan, this was the only other way of proceeding. I am absolutely appalled to learn that in developing this bill—listening to people who have identified very specifically and irresistibly the argument that when one buys a house on larger acreage in a rural area such as the Southern Highlands, it is about not just the house but also the garden—the Government did not take those views into consideration. Some people have bought modest houses. They did not move to the area for the house; they went there because they could afford to plant the large garden of their dreams and grow their own vegetables. The important Slow Food and natural foods movements are significant in my electorate because people have the room to grow vegetables in their own gardens.

However, the bill does not enable that to occur. The amendment bill does not recognise that it is not just a window of a house that might be impinged by the shade from a tall hedge; it affects the entire amenity of a house—the back garden, fruit and vegetable plots, fruit trees, a verandah and a sunny sitting area. People move into a house in the Southern Highlands often with the expectation of enjoying the most wonderful and beautiful scenery that New South Wales has to offer. Yet within a couple of years cypress leylandii hedges can make that absolutely impossible.

I support the bill as a step in the right direction, but it is a disappointingly short-sighted step because it does not acknowledge that rural-residential land is different in size and amenity or the reason why people buy it. It would have been no more trouble for the bill to acknowledge that people's vegetable and flower gardens are thrown into permanent shade or residents are suddenly denied the landscape that they had enjoyed for 20 years because their neighbours planted cypress leylandii hedges. It would have been so easy to respond to those concerns and address them in the bill without overly impinging on the rights of property owners. That is a disappointing shortcoming in the bill, but ultimately it is a step in the right direction. I am particularly pleased that it provides for councils to recover administrative costs from recalcitrant ratepayers.

Mr MICHAEL RICHARDSON (Castle Hill) [11.12 a.m.]: The Trees (Disputes Between Neighbours) Amendment Bill 2010 is more notable for what it does not provide than for what it does. The issues dealt with by the bill relate primarily to sunlight. One would have to say that the Government, in introducing the bill, is hedging its bets. The bill does not deal with some issues that are of genuine concern to residents. Not everyone has a hedge growing next to their home that obstructs their sunlight. Some people have trees growing next to their house or on the nature strip that cause significant damage to their property. The concerns and interests of those people were not taken into account in the Government's review of the original Act. The bill gives the Land and Environment Court a new jurisdiction to hear disputes about high hedges that severely block sunlight to a window of a dwelling. It makes it clear that an application to the Land and Environment Court can be made after trees have been removed. In *Robson v Leischke* [2008] NSWLEC 152 the Land and Environment Court found that the court had no jurisdiction to make orders to remedy damage to property, or require payment for compensation for damage caused by a tree, if that tree has been wholly removed.

The bill amends the Act to prescribe vines as a tree for the purposes of the Act. Once again, not everyone has issues with vines growing next to their property or over their fences. My constituent Mr Dennis Newman has raised issues with me over a significant time. I want the House to listen to his story, particularly because Mr Newman has been through the mill. He has been to the Land and Environment Court over a matter relating to a tree growing next to his property that is damaging his property, and he has got absolutely nowhere. Mr Newman has a problem with a large 20-year-old jacaranda tree, which is still growing, that is located in the back corner of the adjacent property in Castle Hill less than one metre from the fence. It has damaged the fence footings and Mr Newman's concrete patio, its roots are through his house footings and there is leaf damage to the roof. The Land and Environment Court carried out an inspection, but all those issues were apparently totally disregarded.

Before going to court Mr Newman dug a 200-millimetre deep trench along his property. When he went to court he was asked whether deeper roots were present. Of course, he had not dug the trenches as deeply as the court wished, so he went back and dug the trenches and found those deeper roots. He resubmitted that as new evidence and was, effectively, laughed out of court. His claim was flatly dismissed along with a new builder's report that stated that the tree was causing enormous damage to Mr Newman's property. Mr Newman estimates that the damage has cost about \$17,000—and rising—and it cost him \$2,000 to take the case to court. He says that the word "roots" needs to be included in the bill so that it covers not only branches but also the roots of trees. We all know that roots can do at least as much damage as branches.

Another issue that angers Mr Newman is that councils are specifically excluded from the provisions of the Act. He said that a number of liquid amber trees that are planted on his nature strip are interfering with his stone retaining wall. The local council told him that it would wait until the damage was obvious, which means effectively that the wall will need to fall down. I have had some personal experience with the Hills Shire Council, formerly Baulkham Hills Shire Council, in relation to trees. About four or five years ago I was sitting in my electorate office when I thought a bomb had gone off. My office is next to a council park in Castle Hill. A dead tree, which had been growing on the boundary, had fallen into my office and smashed one of the plate-glass windows. There were huge shards of glass across a couch where constituents had been sitting only half an hour earlier. Unquestionably, a constituent would have been killed had he still been sitting there.

The council had not inspected its trees and had not accepted its responsibility for removing trees that clearly posed a danger. I am sure that that occurs throughout New South Wales. Mr Newman has a point:

Councils across the State should accept more responsibility for trees in public places. The fact that the Act, as currently constituted, specifically exempts councils from consideration does not seem to me to be fair and adequate. The bill deals with issues such as hedges and vines but does not deal with the real issues that are concerning residents across this great State.

Mrs DAWN FARDELL (Dubbo) [11.18 a.m.]: I make a brief contribution to debate on the Trees (Disputes Between Neighbours) Amendment Bill 2010. I have a lot of contact with my constituents about tree disputes. To date, local councils have been restricted as to how they can act within the law to resolve a dispute without the matter going to the Land and Environment Court. It is good that there is the new procedure in the Land and Environment Court for resolving neighbour disputes about urban trees that cause damage to property and are an energy risk.

The bill gives the court jurisdiction to hear and determine matters arising under the Dividing Fences Act. As we know, not all fences are made of Colorbond or timber and many people in the area I represent have vines holding up old timber fences, and disputes arise. We need to have some consideration for people whose properties have been established for quite some time, particularly in the older areas. I heard the member for Goulburn refer to her part of the world, which is a lovely area with wonderful gardens and hedges, but there are a lot of older homes in my area as well. If those homes are surrounded by vacant land that someone subsequently builds on, why should the long-time resident be affected? If they have a tidy hedge that has been made into a fence, why should their enjoyment of living be affected by someone with alternative gardening ideas?

A pleasing aspect of the bill is that it allows local councils to recover an administration fee when they enforce an order under the Trees (Disputes Between Neighbours) Act and to register an order for its enforcement costs as a charge on the tree owner's land. The bill describes vines as trees for the purposes of the Act. There is an issue in my area where the odd neighbour or two that I am quite close to thinks that bamboo is quite acceptable as a fence. If we are looking at including vines in the Act we should also look at including other plants that people use as hedges. If vines are trees for the purposes of the Act, bamboo should be too because it is worse than flying foxes.

Mr Thomas George: They must be bad!

Mrs DAWN FARDELL: They are pretty bad. In relation to schedule 1 [3], which deals with native trees, I point out that storms and strong winds can cause disasters in small suburban blocks by bringing down a large eucalypt or gum tree on top of a house or car. It causes unbelievable damage. If we are to be serious about addressing this issue, we need to take a good look at this aspect of the bill. Such trees are totally inappropriate for suburban blocks, not just in the Dubbo electorate but throughout New South Wales and Australia, and consideration should be given to councils' permission to remove such trees. Eucalypts cause other damage in suburban blocks as well, for instance, where people have a backyard pool. Such people do not necessarily live in high-income areas. The daily damage caused by leaves from these trees is appalling and needs to be addressed. What can we do to remove native trees from suburban blocks? I am sure it would make the job of State Emergency Service members a lot easier if they did not have to chainsaw fallen gum trees after every storm that hits the State.

High hedges are certainly not appropriate on some smaller blocks, but they are appropriate on larger blocks. Many of the new subdivisions in my area beyond the one-acre blocks cover a couple of hectares. Many farming areas that are now situated close to town have been subdivided under local environmental plans and people are enjoying the lifestyle. They have quite a bit of room to move around with their children. They may have a tennis court or a pool or just a home on a big block with room to run a horse or whatever. However, there are covenants about fencing. Residents cannot have a fence over about waist height so they tend to put up a hedge for privacy. Everyone deserves privacy, and I have no issue with hedges being grown to a height of at least 2.5 metres on a larger block of land. To my mind, it is acceptable to have such a hedge because it would not block a neighbour's sunlight or shade.

Another matter I want to raise relates to the apartment blocks being established throughout Sydney under the Government's new planning laws. Neighbours have no recourse if an apartment block is erected alongside their property. There have been frequent reports about this problem in the newspapers. If we are proposing to limit trees and hedges to stop them blocking sunlight, what is the Government doing to address the problems caused by large apartment blocks that are erected beside suburban homes? Some homes are being built out, particularly on the North Shore, and they do not get any sun from the north, south, east or west because of

the surrounding apartment blocks. I advised constituents some time ago that a draft bill was coming forward. People have been waiting for a long time to have some recourse in regard to neighbourhood trees that are dangerous. The problem in my area relates more to native trees than hedges. I hope the bill will not force residents to take every little problem they have to the community justice centres. I hope that councils will be able to deal with the problems.

I question also whether we are putting too much emphasis on how people should keep their yards and gardens. If someone is building a new home or units in some parts of my electorate the council will not allow roses or hedges to be grown. People have to plant native grasses instead. I think that is rather sad. Dubbo does not have water issues, apart from price increases, and there is an ample supply. If people are prepared to pay for that water through excess water charges they should be allowed to grow roses, not just native grasses. It is not Arizona; it is Dubbo. It is a hot climate; the western climate is harsh but it is a very good climate for growing things. Broken Hill grows the best roses I have seen in New South Wales.

If any area should grow native grasses it is probably Broken Hill. However, it is not Arizona and residents should not be forced to comply with controls dictated by a bureaucrat. People should be allowed to have hedges, to a height that does not affect a neighbour, and should not be forced to grow plants that they do not wish to grow. If they are responsible residents they should have the right to grow what they want. Overall, I accept the provisions of the bill, but we need to keep a close eye on it. Councils need to have these powers but they should not be enforced against a person who has always been responsible in growing a hedge on a fence line just because someone new has moved in and wants to see the hedge removed.

Mr THOMAS GEORGE (Lismore) [11.25 a.m.]: The object of the Trees (Disputes Between Neighbours) Amendment Bill 2010 is to amend the Trees (Disputes Between Neighbours) Act 2006, which is the principal Act, and certain other Acts and an instrument in order to implement the recommendations arising from the statutory review of the principal Act. In particular, the bill extends the operation of part 2 of the principal Act to trees situated on land zoned rural-residential. It also gives the Land and Environment Court the jurisdiction to hear disputes about high hedges that severely obstruct sunlight to a window of a dwelling on adjoining land or views from such a dwelling. It gives the court jurisdiction to hear and determine matters under the Dividing Fences Act 1991 in certain circumstances where a related application has been made under the principal Act. It makes it clear that an application under part 2 of the principal Act can still be made following the removal of the tree that caused the damage or injury on which the application is based.

The bill allows a local council to recover the amount prescribed by the regulations as an administrative fee where it enforces an order under the principal Act, in addition to the costs of carrying out the work required to enforce the order. It enables a local council to register an order for costs as a charge on the land concerned. It also enables the immediate successor in title to an applicant to benefit from certain orders made under part 2 of the principal Act. The bill provides for plants that are vines to be treated as trees for the purposes of the principal Act and makes other minor statute law revision amendments.

I have a few concerns about the bill. I know that everyone has touched on this particular issue. There would not be one member in this House who has not had some sort of complaint about a tree, but now we are forcing people to go to the Land and Environment Court to resolve the matter. I ask the Parliamentary Secretary to advise the House whether the court will be provided with the resources to handle the onslaught that I expect will follow. My electorate does not have ocean views so I probably do not have as much trouble as members in other electorates have. However, could the Parliamentary Secretary advise what the Department of Housing will do about its problems? Is the department going to run off to the Land and Environment Court?

I have had a number of complaints from tenants of the Department of Housing who have a tree on their side of the fence and the neighbour wants it shifted. Is the department going to go to the Land and Environment Court to get that sorted out? That is a very valid point. I will give an example that relates to a provision in the bill that I outlined earlier. I wish to quote from a letter that I received that highlights the problems being experienced by two neighbours living in a Department of Housing estate. That letter states:

Since the last letter, I have had my 3rd child. He has been quite ill frequently now and has been hospitalised—

this problem has been so protracted that a third child has since been born—

and he is only 11 mths old. I have had him to doctors more than his 2 sisters ever were. I have also been told by my GP due to him having had bronchitis due to hospitalisation that he is going to end up asthmatic which explains his cough.

I am not asking for the tree removal for beautification of our property but for the health and safety of myself, my husband and our three children.

The Department of Housing has to resolve any arguments between neighbours relating to overhanging trees. Should councils be forced to go to the Land and Environment Court when many of these community housing problems should be resolved by the Department of Housing? Councils that are confronted with tree problems such as this often take a long time to cooperate. Under this legislation we are giving councils authority to take these matters to the Land and Environment Court. I am sure that many members would be aware that people living in Department of Housing estates or in any other estates have made complaints to councils. However, councils do not attend to those matters, which is causing major problems.

This legislation makes it easy for councils to go to the Land and Environment Court. I doubt whether councils will accept the responsibility that has been bestowed upon them. Councils can now recoup their costs but I believe that there will be hesitancy on their part to carry out the work and to charge landholders for such work because councils will no longer have the ability to make a decision about who is right or wrong. Camphor laurel trees are a major problem on the North Coast. Some councils list camphor laurel trees on their tree preservation orders, which limits a council's ability to remove any nuisance trees. I have grave concerns about many of these issues. To me, this do-nothing bill will force councils to go to the Land and Environment Court. How will the Department of Housing resolve these problems? Will the Land and Environment Court be given additional resources to handle these problems?

Mr VICTOR DOMINELLO (Ryde) [11.33 a.m.]: I contribute briefly to debate on the Trees (Disputes Between Neighbours) Amendment Bill 2010, the overview of which is as follows:

The object of this Bill is to amend the Trees (Disputes Between Neighbours) Act 2006 (the principal Act) (and certain other Acts and an instrument) to implement the recommendations arising from the statutory review of the principal Act. In particular the Bill:

- (b) gives the Land and Environment Court (*the LEC*) jurisdiction to hear disputes about high hedges that severely obstruct sunlight to a window of a dwelling on adjoining land or views from such a dwelling, and
- (c) gives the LEC jurisdiction to hear and determine matters under the Dividing Fences Act 1991 in certain circumstances where a related application has been made under the principal Act.

The matters to be considered by the Land and Environment Court are listed in section 14F. Some of the relevant matters include:

- (b) whether the trees existed prior to the dwelling the subject of the application (or the window or part of the dwelling concerned where the dwelling has been altered or added to),
- (c) whether the trees grew to a height of 2.5 metres or more during the period that the applicant has owned (or occupied) the relevant land ...
- (p) whether the trees lose their leaves during certain times of the year and the portion of the year that the trees have less or no leaves
- (q) the nature and extent of any view affected by the obstruction and the nature and extent of any remaining view
- (r) the part of the dwelling the subject of the application from which a view is obstructed or to which sunlight is obstructed
- (s) such other matters as the Court considers relevant in the circumstances of the case.

I agree with those members who have spoken in debate on this bill. Most of them would have received a complaint concerning tree-related problems. In my time as a parliamentarian disputes between neighbours have been some of the most heated disputes that I have experienced. As a lawyer, whilst I conducted many cases in the Supreme Court, the Family Court and the like, some of the most heated disputes were between neighbours fighting over the Dividing Fences Act, or trees and nuisance-related matters.

Recently a gentleman by the name of George William Dicker Senior approached me about a problem concerning a tree in his neighbour's backyard. Mr Dicker, a World War II veteran, has lived in his house in West Ryde for 50 years. Mr Dicker's neighbour planted a banana tree that overhangs his fence and is causing significant problems. It is blocking out the sunlight and causing damage to the fence. This bill, which is a welcome piece of legislation, will attempt to address issues caused by the blocking out of sunlight and provide people with recourse to the Land and Environment Court if their quiet enjoyment is inappropriately

interfered with. I ask the Parliamentary Secretary, when he responds to debate on this bill, to confirm whether the definition of "hedge" is broad enough to cover situations such as banana trees and bamboo. Section 14A states:

14A Application of Part

- (1) This Part applies only to groups of 2 or more trees that:
 - (a) are planted (whether in the ground or otherwise) so as to form a hedge, and
 - (b) rise to a height of at least 2.5 metres (above existing ground level).

In Mr Dicker's case it appears that only one banana tree was planted. Many members would be aware that banana trees and trees of that kind, for example, bamboo, have suckers that grow and expand in width. One bamboo shoot or one banana tree might be planted but, if left unattended, it will cover many metres in width within four or five years and form a hedge. However, the definition refers to the planting of "groups of 2 or more trees". I hope that the court will adopt a commonsense approach to Section 14A so that people such as Mr Dicker can get comfort from this legislation if he needs to apply to the Land and Environment Court for relief. Finally, the member for Tweed asked me to ask the Parliamentary Secretary the following question: Has the Government consulted with the Local Government and Shires Associations in relation to this bill and, if so, what has been its response?

Ms GLADYS BEREJIKLIAN (Willoughby) [11.39 a.m.]: We are debating an important issue, which is why many members have made a contribution to debate on the Trees (Disputes Between Neighbours) Bill 2010. Prior to the introduction of this bill, if trees or hedges caused damage to property or persons, residents had no recourse to take further action. However, this bill provides for the resolution of disputes relating to high hedges that block out the sunlight or views. The provisions in this bill are additional to provisions that currently exist in the law. Many people in the Willoughby electorate have worked hard to secure a view from their properties. As many people now live closer together than they ever did due to increasing densities, this issue has become even more important and relevant to people's enjoyment of their properties and their ability to live with one another comfortably and respectfully.

The bill gives the Land and Environment Court new jurisdiction to hear disputes about hedges that severely block sunlight to a window of a dwelling on adjoining land or views from that dwelling. These new provisions allow residents recourse to resolve these issues by creating a process to hear and dispose of neighbour disputes. Before determining an application the court must consider various factors, such as the contribution of trees to the natural landscape, the scenic value of the land or locality, and any environmental impact of the trees or hedges in question. These provisions also give certainty to local councils that enforce a court order to recover prescribed administration fees associated with neighbour disputes.

I support this bill. Although not perfect, it takes that additional necessary step to provide recourse to residents and offers an extra level of certainty. At the same time, it recognises the value people place on their views and on living respectfully and harmoniously with their neighbours. Since I have been a member of this place many of my constituents have spoken to me about hedges or trees that have caused them angst. This bill goes a little way to alleviating some of their concerns. More than anything else, it recognises that people can suffer loss or some kind of angst even if a tree or hedge does not cause, or potentially cause, physical damage. The bill takes into consideration residents' views and sunlight. I commend the bill to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [11.42 a.m.]: I shall make a brief contribution to the debate on the Trees (Dispute Between Neighbours) Amendment Bill 2010. I understand the intent of the bill, but I am concerned about some aspects of it. In particular, I am concerned about paragraph (b) of the objects of the bill, which states:

- (b) gives the Land and Environment Court (*the LEC*) jurisdiction to hear disputes about high hedges that severely obstruct sunlight to a window of a dwelling on adjoining land or views from such a dwelling ...

Most members have raised this issue as an area of concern. My concern relates to rural dwellings. The rural lifestyle is becoming more popular and an enormous number of subdivisions are occurring in those areas. I am concerned that development applications for those subdivisions allow new dwellings to be constructed close to the boundaries. Therefore, the sunlight and amenity of these new dwellings can be affected because of the geographical nature of the land. For example, a block of land may be rather rough in terrain and there may be only a small envelope on which a dwelling can be built. A person may build a home where it will be affected by

an existing neighbour's trees or will impact on the neighbour, whether the neighbour already lives there or is developing at the same time. Over time the trees will grow and there will be a dispute. It is because of the geographical nature of the land.

I refer to the suggestion that views can be affected. I believe that when a person buys a developed or undeveloped rural block they should not be able to claim that their view is being obstructed by a neighbour's tree. An adjoining landholder should not have the right to have a tree removed or cut unless, as is stipulated in the bill, it affects the light or amenity of the property. I refer, in particular, to rural landscapes. I understand that there are problems with trees in towns. For example, trees may have been planted unwisely; the wrong type of tree may have been selected. The tree may impact on property, foundations may be undermined, streets and paths may be damaged—those sorts of things may occur. Indeed, trees can destroy fences as they grow. I understand all of that.

I merely want to make a point from a rural perspective: people invest a lot of money in tree lines and in their farms. However, rural subdivisions of virgin property sometimes provide limited envelopes on which to build. Over time there will be problems because the developing owner of the property has nowhere else to build. It will create difficulties. For example, in time trees will grow, yet this bill suggests that an adjoining landholder has the right to the view. I suggest that landholders have a right to plant trees on their property to improve the amenity of the rural property, to provide windbreaks, and also for carbon, salinity and all these sorts of things.

I have planted 1,600 trees on my property. I spoke with our neighbours and we came up with a plan to plant those trees to improve the amenity of the land and, of course, for the wildlife. I did that in conjunction with the neighbours; none of those tree plantings will encroach on or impede their views. However, in the future that property might be approved for development and a new house may be built. In the future that could affect the trees I have planted. The new neighbours could complain that my trees, which may have been planted 10 or 20 years previously, are affecting their view and amenity.

That is the part I am concerned about: how the Land and Environment Court interprets that. Perhaps where those close proximities occur in future developments there needs to be some kind of limit, or minimum offset, to the boundary so that both neighbours can live in harmony. They will know that there is a tree line, which will grow in time, that was planted by a neighbour and that it will not be subject to a Land and Environment Court order as it develops and grows. I hope that is reasonably clear. I have spoken in the debate from the rural perspective. I support the bill. However, I make the point that in rural areas people invest in tree lines for all the reasons I have outlined. There should be a setback so that the work the landholder has undertaken over many years is not subject to a claim by a new development that may occur in the future.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [11.47 a.m.], in reply: I thank the 15 members who have spoken to the Trees (Dispute Between Neighbours) Amendment Bill 2010. I note also that the Opposition does not oppose the bill. In fact, Opposition members have made quite supportive comments. The member for Epping led for the Opposition. He made a statement in regard to schedule 2 and the amendment to the Dividing Fences Act, suggesting that it did not apply to past damage. I have spoken to him and he accepts that it was an oversight on his part. We will forgive him under what he would appreciate is called the slip rule.

I refer to the comments of the member for Pittwater. This bill is about resolving disputes between neighbours; it is not about prosecuting people for illegal clearing or removal of trees. Such prosecutions would be commenced in the Land and Environment Court. Of course, the penalties are imposed by the court within the range available through legislation. The weight the court would give to deterrence, either general or specific, is a matter for the court. As I have already said, the bill is concerned with the resolution of disputes between neighbours, not about punishing illegal clearing or vandalism. Prosecution for those types of offences is dealt with under other environmental legislation and determined by the Land and Environment Court. For the information of the member for Hawkesbury, this is a matter that really should be raised with the Minister for Transport and Roads.

The member for Tweed made interesting observations during the debate. He asked who determines whether a tree is a safety risk and I advise the member that the court will make that determination. It is important to note that some members of the Land and Environment Court have arborist training and that, quite often before making a determination, they obtain a report from an arborist. The matter of insurance is a matter for the home owner or the landowner.

The member for Tweed and the member for Burrinjuck queried what constitutes a view. The Government's response is that that really depends on the circumstances of the case. For the information of these members, I refer to page 2,359 of the *Macquarie Dictionary*, which is available for members' perusal at the table and which sets out 28 definitions of the term "view". It is really a matter for the determination of the court in the particular circumstances of a case. Some dictionary definitions include a "range of sight or vision" and "a sight or prospect of some landscape, scene". Members who are devotees of *Fawlty Towers* may recall that consideration of the meaning of the term "view" arose in the context of the view from a window in Torquay, and may recall that John Cleese wondered whether the visitor expected a view of the Sydney Opera House.

The breadth of the concept of a view or protection of a view is constrained by the requirement of being able to demonstrate that a view is severely obstructed pursuant to paragraphs (a) (ii) and (b) of new section 14E (2), which states in part, "the severity and nature of the obstruction is such that the applicant's interest in having the obstruction removed, remedied or restrained outweighs any other matters" that militate against disturbing the trees. "Any other matters" are set out in a new section 14F and include the location of the trees concerned, the value of the trees to the local environment and other related matters.

The member for Burrinjuck discussed the bill in the context of the definition of "rural-residential". The definition of "rural-residential" is really a matter that is determined by local planning laws. It is important to note that new section 14A (2) of the bill does not apply to trees on land within a zone designated rural-residential under an environmental planning instrument. The member for Burrinjuck also discussed the issue of obstruction of a view that would otherwise be enjoyed by people who simply drive by and whether those people will be able to make an application under the Act. The Government's response is that people driving by will not be able to make an application because the legislation applies to disputes between neighbours, two or more of who have an interest in the land. I point out to the member for Burrinjuck and to the member for Goulburn that part 2 of the principal Act relates to trees that cause, are causing or are likely to cause damage or injury. That provision has been extended to land zoned rural-residential as it was raised in the context of the review.

The new jurisdiction relating to high hedges that severely impact on views and solar access is restricted to land zoned residential because the Government is moving cautiously in this legislative area and because high hedges are less likely to block views and sunlight in areas where properties are large and homes are spaced far apart. The issue may be re-evaluated during the next statutory review of the legislation, which is due to be undertaken two years after the commencement of part 2A. The member for Goulburn and the member for Wagga Wagga queried why the new high hedges jurisdiction does not apply to land that is zoned rural-residential. While there are some concerns about high hedges in rural areas, the Government considers it preferable that the new procedures should not apply to hedges on rural-residential land in the first instance.

Firstly, disputes over high hedges that block sunlight and views are likely to be rarer in rural-residential zones because the blocks of land are large and the houses are spaced widely apart. Secondly, the new high hedge dispute procedure will apply to all hedges, including those made of native species. Given that the Native Vegetation Act also applies to rural-residential land, it is important to ensure that the new procedure will not interfere with the broader environmental goals of the Native Vegetation Act. That restriction also may be revisited and considered in the proposed review two years after the adoption of the new procedure.

In relation to Leyland cypress and Leighton green trees, which were referred to by the member for Goulburn, I point out that it is really not appropriate for the trees Act to prohibit or ban a particular species of tree. The purpose of the Act is to provide a procedure for resolution of disputes relating to trees causing certain types of problems rather than regulating the planting of certain species or their location.

In response to comments made by the member for Castle Hill, which directly oppose the contribution made by the member for Sydney, I point out that application of the legislation does not extend to trees on council land because, for a range of strong reasons, the report of the review recommended against it and the Government accepted the recommendation. The review noted that councils are already liable in tort regarding trees, that they regularly settle with landowners in relation to damage or injury caused by trees and that, unlike private landowners who are covered by the Act, councils manage their tree population on a day-to-day basis and employ professional staff.

Unlike private landholders, councils already have processes in place to receive complaints and investigate and respond to complaints about trees. Councils generally respond in a timely manner when a matter is brought to their attention. They manage hundreds of thousands of trees over a vast area, which includes

Crown reserves, community land and public roads. Whereas private land in urban areas may on average adjoin properties of four or five other landholders, local councils effectively are neighbours to almost every landholder in a local government area. If trees on council land were included within the scope of the Act, councils would be subject to a large volume of additional claims.

The member for Lismore discussed the issue of the sufficiency of resources for the Land and Environment Court. I advise the House that the Land and Environment Court is well resourced and has trained arborists. The court's clear-up rate is good. Its determinations are quick and relatively inexpensive. I point out in relation to public housing tenants that the legislation does not apply to disputes between public housing tenants because Housing New South Wales is the owner of both properties. It will be a matter for Housing New South Wales to address the issues.

In determining the meaning of "hedge", the court will adopt a commonsense view in its approach. The member for Ryde and the member for Dubbo queried why the new jurisdiction applied not to groups of trees but to trees that form a hedge. High, dense hedges are most likely to affect or block sunlight and views, and they were the most serious and most frequent concern raised in the course of the statutory review. This amending legislation is intended to target those hedges, not to capture single trees within the ambit of the legislation. To a greater or lesser extent, every tree blocks sunlight or screens a view. If orders to prune or remove any single tree can be sought solely on the ground of access to a view or sunlight, there would be considerable loss to the tree canopy across all urban areas of New South Wales. Obviously, that would be undesirable because trees provide numerous community and environmental benefits.

It should also be borne in mind that this legislation represents an incursion into the traditional tort of property rights. Common law has never recognised the blocking of sunlight or views as a form of nuisance. At common law, there is no right to a view. For these reasons the Government is taking a cautious approach to the extension of the jurisdiction. The Government's aim is to provide a dispute resolution process for the most problematic cases in which high, dense hedges on immediately adjoining private properties are blocking sunlight to, or views from, a dwelling. Any proposed extension to the new jurisdiction will be considered in the proposed two-year statutory review of the new part.

The bill gives effect to amendments recommended by the statutory review of the Trees (Disputes Between Neighbours) Act 2006 and in response to community and Government concerns raised in the review. The most notable amendment will be that the Land and Environment Court will be given the power to resolve disputes between neighbours over high hedges that severely affect views and sunlight. Neighbourhood feuds over hedges are becoming increasingly common. There even have been reports of residents growing what is referred to as spite hedges to deliberately block a neighbour's view. Up until presentation of this legislation, there has been no legal avenue to assist in resolving disputes relating to high hedges. That has resulted in tensions fomenting for years. The New South Wales Government is assisting to build community harmony by providing neighbours with a simple, accessible and inexpensive legal avenue for resolution of hedge disputes. I take pleasure in commending the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

APPROPRIATION (BUDGET VARIATIONS) BILL 2010

Bill introduced on motion by Mr John Aquilina, on behalf of Mr David Campbell.

Agreement in Principle

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [12.01 p.m.] I move:

That this bill be now agreed to in principle.

The Appropriation (Budget Variations) Bill 2010 is a key part of the annual budget process. It is not always possible to seek Parliament's authority in advance for unforeseen and urgent expenditure, and provisions have been established for such situations. These include the Treasurer's Advance and section 22 of the Public Finance and Audit Act 1983. In the annual Appropriation Act an advance is appropriated to the Treasurer to cater for unforeseen and urgent expenditures that could not be forecast at budget time. This bill includes details of expenditure from the Treasurer's Advance, ensuring that there is a transparent and accountable process to Parliament. Under section 22 of the Public Finance and Audit Act 1983, the Treasurer, with the approval of the Governor, has determined that amounts will be paid from the Consolidated Fund for exigencies of government, in anticipation of appropriation by Parliament. This bill provides details of those payments.

This bill also seeks approval by the Parliament for the payment of additional appropriations in 2009-10 for which no provision was made in the annual Appropriation Act. This includes an additional contribution to the Pooled Fund Superannuation Scheme, funding for the Metropolitan Transport Plan and a Principal Priority Building Program loan to the Department of Education and Training. The additional contribution of \$510 million to the Pooled Fund Superannuation Scheme will be funded from the proceeds of the Lotteries sale. This will ensure that the impact of the sale is budget neutral on a risk-adjusted basis. Additional funding for the Metropolitan Transport Plan reflects the Government's commitment to the plan, and the provision of up-front funding will assist in locking in delivery. The provision of a loan from the Crown to the Department of Education and Training to fund various minor capital works reflects the execution of a mini-budget decision. Previously it was intended that funding be provided as an offset to credit balances in school bank accounts.

The practice of seeking approval for supplementary funding to cover expenditure not provided for in the annual Appropriation Act has now become an important part of the annual budget process. This process has been endorsed by the Auditor-General as well as the Legislative Council's General Purpose Standing Committee No. 1 in its report on appropriation processes. The bill has three key features. Firstly, it provides an account to Parliament on how the 2009-10 Treasurer's Advance has been applied towards recurrent and capital expenditure, and details of the allocation of the 2008-09 Advance not previously reported to Parliament; secondly, it seeks appropriations to cover expenditure approved by the Governor under section 22 of the Public Finance and Audit Act 1983; and, finally, it seeks appropriation for payments that are intended to be made in the current financial year where no provision was made in the annual Appropriation Bill. Schedule 1 to the bill covers appropriations for 2009-10, and schedule 2 covers payments made in 2008-09. The payments for 2008-09 have already been brought to account in agency audited financial statements and have no impact on the published budget result for that year.

The Appropriation (Budget Variations) Bill 2010, in respect of the 2009-10 financial year seeks appropriations of \$347.162 million in adjustment of the advance to the Treasurer, \$79.720 million for recurrent services approved by the Governor under section 22 of the Public Finance and Audit Act 1983, and an additional appropriation of \$695 million. Schedule 1 to the bill has a full account of how the Treasurer's Advance has been applied this year. The allocation of the Treasurer's Advance in 2009-10 highlights the Government's commitment to ensuring appropriate services for the community and includes \$30.2 million for stamp duty associated with the Barangaroo development, \$29.2 million funding for stage 3A of the Nepean Hospital redevelopment project and the Blacktown clinical simulation facility and \$22.2 million for drought assistance programs.

It also includes \$18.8 million funding to purchase a waste treatment site from WSN Environmental Solutions, \$17.4 million funding for the Digital Education Revolution National Partnership, \$13 million in additional funding requirements related to Commonwealth elective surgery targets, \$10.2 million for the Yellow Rock Priority Sewerage Program, \$9.6 million funding for sporting and recreation grants, \$918,000 for the Keep Them Safe initiative for child protection, \$5.3 million for life support equipment related to swine flu, \$3 million for emergency drought works for Lake Cargelligo, \$750,000 for the Anzac War Memorial Trust, \$801,000 for the Greenhouse Gas Abatement Scheme, \$1.24 million for an autism early outcomes unit, \$1.19 million for firefighting equipment and \$2 million for the Wayside Chapel.

In 2009-10, two approvals for \$79.72 million were made under section 22 of the Public Finance and Audit Act 1983. These were \$71 million to support the First Home Owner Grant scheme and \$8.72 million for coal compensation payments. The bill also seeks appropriations for payments made during the 2008-09 financial year approved by the Governor under section 22 of the Public Finance and Audit Act 1983, and reporting the payments made under the Treasurer's Advance.

Schedule 2 to the bill details the funding made in 2008-09. Highlights include additional funding for the First Home Owner Grant scheme, Government obligations under private bus contracts, additional insurance

and claims costs for the Police Death and Disability scheme, and higher school-based employee costs. Each of the payments made in 2008-09 has been included in the audited financial statements of the relevant agencies for that year. The practice of introducing further appropriation bills has enhanced accountability for the expenditure of public money from the Consolidated Fund. It is further evidence of the Government's commitment to transparent and full financial reporting to the Parliament and the community. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.

COMPANION ANIMALS AMENDMENT (OUTDOOR DINING AREAS) BILL 2010

Agreement in Principle

Debate resumed from 22 April 2010.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [12.10 p.m.]: I support the Companion Animals Amendment (Outdoor Dining Areas) Bill. In particular, I am pleased that the bill will maintain a balance between the benefits of owning a companion animal and protecting the community from animals that may represent a nuisance or risk to public health and safety. For many in the community the family dog is a key part of everyday life. Whether it is time with the kids or a leisurely weekend catch-up with friends, the family dog is usually there. With the growth of an alfresco cafe culture, the desire of pet owners to include their dog when socialising has also grown.

In March this year I received a petition signed by Mrs Nancy Parker of Jannali along with 215 other petitioners. The petitioners were concerned about the ban on dogs in the outdoor section of Como Marina cafe. The cafe is situated next to the Como Pleasure Grounds, recently upgraded with considerable financial assistance from the State Labor Government. The cafe is adjacent to the public walkway, connecting Como with Oatley across the Woronora River. It has been a popular dog-friendly cafe for many years. According to Mrs Parker 30 per cent of the cafe's regular business is derived from people with dogs. She fears the recently enforced ban on dogs by Sutherland council will compromise the once busy cafe. Mrs Parker wrote:

This petition has been signed by 216 customers of the cafe at Como Marina over a period of two weeks in response to the council ban on dogs. This cafe has been a dog-friendly cafe for at least 20+ years, patronized by many single elderly people for whom walking their dog and meeting friends has been a significant social contact to dispel the isolation experienced by many in our present culture.

This once dog-friendly cafe surrounded by park and oval played an important—although obviously unrecognized—role in our community. Having worked as a community occupational therapist with particular interest in the elderly and isolated, I was dismayed to see the regular customers with their companion pets turned away from this once friendly meeting place.

I watched one elderly couple with their little white dog being turned away; the dog was too attached to its owner to be tied up at a distance. The man said as he sadly walked away "I take my wife out of the nursing home each week and bring her here for coffee. We've been coming for years. I don't know where we will go now." This is why I have organized the petition. In hope someone with the ability to amend this discriminatory law listens to those who have been affected.

Nancy Parker

This Government has listened to the concerns of Mrs Parker, the 215 other petitioners and to many in the community who share the same concerns. The bill enables people to have their dog with them in an outdoor dining area, while minimising the impact this has on others also enjoying time at an outdoor dining area. The key difference between the Government's bill and the Opposition's bill is balance. Balance is a key aim of the Companion Animals Act and this intent is reflected in the Government's bill. Importantly, the bill does not provide dog owners with an absolute right to enter any outdoor dining area with their dog. There will be an explicit right for operators of outdoor dining areas to decide, when allowed under a licence agreement or development consent from their local council, whether to allow dogs into their outdoor dining areas.

The Opposition's bill fell short of conferring this explicit right on cafe operators to determine how their business should be run. Under the Government's bill, which allows the operator of the outdoor dining area to decide to allow dogs, specific conditions must be met to value and balance the needs of the community. The outdoor dining area must not be enclosed and must be able to be entered by the public without passing through an enclosed area; and dogs must be on the ground at all times, not on tables, chairs or laps. This ensures that dogs do not enter areas where food is consumed. Dogs may be provided with water but they must not be given food. Importantly, dangerous and restricted dogs are not permitted in outdoor dining areas in any circumstances.

Dogs must be under the effective control of a competent person and be restrained by a chain, cord or leash. This last condition in the bill is consistent with the Companion Animals Act and means that responsibility for the behaviour of the dog remains with the owner at all times.

The growth in footpath dining means that there is potential for more dogs to be present in and around outdoor dining areas now than there was in past years. This bill sets out a common-sense approach to balancing the desires and needs of the broader community by allowing dogs in outdoor dining areas with strict controls in place to manage any health and safety risks and keeping responsibility of the dog firmly with the owner. I thank Mrs Parker for bringing this important matter to my attention and to the Government for bringing this bill forward. I commend the bill to the House.

Mr CHRIS HARTCHER (Terrigal) [12.15 p.m.]: I lead for the Opposition on the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010. The New South Wales Liberal Party and The Nationals do not oppose the bill, which is almost a 100 per cent replication of a private member's bill I introduced on behalf of the Opposition, that is, the Companion Animals Amendment (Dogs in Outdoor Eating Areas) Bill 2010. The difference between the two bills is that the Government has changed "Outside Eating Areas" to "Outdoor Dining Areas"—a significant change, but it is not without its importance in the history of the development and evolution of the Parliament in this State. Generations yet unborn will wonder why the Government sought to adjourn the Opposition's bill and introduce its own.

A comment that we often hear from this Government is "Where are your policies?" Every time we announce a policy the Government rushes to steal it. On this very day the Government rushed to steal the Opposition's dogs in outdoor eating areas bill and it also rushed to steal the Opposition's Carers Recognition Bill, which I take as a great compliment. I am enormously flattered that the Minister for Local Government is in the Chamber. The Government, having taken the Opposition's policy and private member's bill on this matter, as well as its carers recognition bill, is acknowledging that all the good ideas, all the fresh approaches that New South Wales so desperately needs—and the change of government that New South Wales cries out for—are coming from the Opposition. We take that as a compliment, maybe a backhanded compliment, but I am not offended by the fact that Government has appropriated the Opposition's bill for its own purposes.

I will compare the Government's bill with the Opposition's private member's bill, which is already before the House. The bill replicates the private member's bill that I introduced on behalf of the Opposition on 19 March 2010. It differs from my bill on the following bases: first, the maximum length of the chain, cord or leash of one metre has been excluded from the Opposition's bill and replaced with the term "adequate chain, cord or leash that is attached to the dog". The Government has taken out the definition of one metre and left it to the usual lawyer's feast about "adequate". There will be litigation, regulation and arguments on the footpath with council inspectors as to whether the chain, leash or cord is adequate. That would not have been an issue under the Opposition's bill, which contains a clear statutory definition of one metre.

The Government has substituted confusion for clarity. What was clear now becomes confused, thanks to the New South Wales Government, desperate to differentiate itself in this bill from the Opposition's private member's bill. The Government has been caught out with inadequate definition. What does "adequate" mean? Adequate is in the eye of the beholder. Adequate is subject to circumstance, legal definition and legal debate. The Opposition was clear and right on target, and where there was clarity there is now confusion. I am sure Shakespeare could not have put it any better.

The next differential between the bills is the requirement that a dog is not permitted to be fed in an outdoor area. That is included in this bill. According to the Government, a dog can be watered but it cannot be fed. If you slip a biscuit to the dog, or if a piece of bread or toast falls and the dog eats it, that is in breach of the Act. However, one is always able to get a bowl of water for Fido. That significant differentiation is specifically provided in the Government's bill. The private member's bill did not allow for dogs to be fed, it did not allow for dogs to enjoy their pupaccino or gourmet dog biscuits, as they can at Cafe Bones at Leichhardt. The Opposition's bill left the matter open, but the Government has done a great thing by putting in a specific clause about food but not a clause about water. The bill provides an explicit right for operators of outdoor dining areas to decide, when permitted under a licence agreement or development consent, whether they will allow dogs into their outdoor dining areas. The differentiation is that that clause was omitted from the private member's bill. As Parliamentary Counsel stated:

It is not necessary to state that the owner of the cafe retains a right to refuse entry or deny service to a person with a dog, as the provision only overrides the specific legislative restrictions on having dogs in outside eating areas as mentioned in the bill. It does not interfere with private property rights.

The point raised by the Government as a differentiation to the Opposition's bill was expressly raised with Parliamentary Counsel, who said that it was not necessary to be included in the private member's bill. The Government had been caught out by independent advice given to the Opposition prior to the introduction of the Government's bill that it was not necessary to spell out any rights about private property, because the bill only overrode a specific legislative problem and did not interfere with private property rights. So much for the Government's differentiation, when Parliamentary Counsel has already made it clear, prior to the introduction of the Government's bill, that it was not necessary as it simply did not apply.

I made this explicit point in my agreement in principle speech. At that time I spelt out to the Government why that was not necessary, what advice it was based on, yet the Government was anxious to find that little bit of difference and has now spelt it out. My next point is that the Minister, in her agreement in principle speech, conjured up the idea of the risk of dog attacks, especially on young children, by allowing dangerous and restricted dogs, including American pit bulls, in outdoor eating areas. Clearly, that is not the case, as owners of outdoor dining areas would have the right to refuse entry or deny service to a person with any breed of dog. Any responsible cafe owner would be aware of their legal liability, as is everyone, if they allow restricted or potentially dangerous breeds onto their property or into their serviced area.

The law on duty of care is unchanged. But, once again, anxious to find a point of differentiation, the Government has inserted that clause in the bill as though everyone in Mosman, Leichhardt, Paddington and other areas where people would take great advantage of this fine proposal, originating from the New South Wales Opposition, would go to cafes with footpath or outdoor dining areas with their American pit bulls. It simply does not happen. That was a conjectured point of differentiation by the Government. Further, the removal of the need for a dog to be restrained by a chain, cord or leash in an outdoor eating area in an off-leash area, which was contained in the private member's bill, has been excluded in the Government's bill. The Minister stated:

The Companion Animals Act will continue to require that any outdoor dining area in an off-leash area must be clearly designated to enable off-leash dogs to be excluded from the outdoor dining area. Only tethered dogs will be permitted in these areas and only if the cafe operator agrees. This would not apply in off-leash areas where there may be a kiosk that does not provide a formal outdoor dining area. Council officers will use their discretion to determine whether a business is providing a designated outdoor dining area.

The Minister has either received faulty advice or he is not giving the House all the information, as the only reference to off-leash areas in the Companion Animals Act is in the following sections. The Companion Animals Act, section 13 (1), states:

A dog that is in a public place must be under the effective control of some competent person by means of an adequate chain, cord or leash that is attached to the dog and is being held by (or secured to) the person.

Section 13 (5) states:

This section does not apply to:

- (a) a dog accompanied by some competent person in an area declared to be an off-leash area by a declaration under this section (but only if the total number of dogs that the person is accompanied by or has control of does not exceed 4) or
- (f) a dog secured in a cage or vehicle or tethered to a fixed object or structure.

We should note that just because a dog is not on a lead in an off-leash area, or is secured in a cage or vehicle, or is tethered to a fixed object or structure, does not mean that an offence under section 16 of the Act is not committed if the dog rushes at, attacks, bites, harasses or chases any person or animal, whether or not any injury is caused. Section 13 (6) states:

A local authority can by order declare a public place to be an off-leash area. Such a declaration can be limited so as to apply during a particular period or periods of the day or to different periods of different days. However, there must at all times be at least one public place in the area of a local authority that is an off-leash area.

That is contrary to the Minister's statement, "there is no reference to an outdoor dining area in an off-leash area in the Companion Animals Act". The Minister's statement to the House was not correct, it did not comply with the Act. I have quoted the relevant section, section 13, of the Companion Animals Act. The Government, in its anxiety to achieve points of differentiation—however concocted, however manufactured—has misread and misinterpreted section 13 of the Act. A further point of alleged differentiation is in the definition of an outdoor dining area. The Government's bill excludes any part of an area that is used for the preparation of food, whilst there is no such exclusion in the private member's bill.

In the Minister's speech and media release and in Minister Whan's media release it was implied that the private member's bill allowed dogs in food preparation areas. The Government implied that our bill would allow a dog in a food preparation area. However, our bill expressly provided that dogs were allowed in outdoor eating areas only, and that those areas could not be accessed through an indoor area. The dog had to be either on the footpath or in an outdoor dining area; it could not walk through an indoor area to get to an outdoor area. That was quite clear. Notwithstanding that, in the private member's bill an outdoor eating area refers to an area that is used for the consumption of food by humans without specifically excluding food preparation.

Once again, in an attempt to achieve these extraordinary differentiations, to justify Parliamentary Counsel's time and the Parliament's time, and to justify the Government claiming that the bill was its own, it has put up a straw man and knocked it over. The Opposition's bill did not allow for dogs in food preparation areas, it allowed them only in outdoor eating areas. However, the New South Wales Opposition does not oppose the Government's bill. As I said, it is our idea, an idea that we brought forward. I place on record, once again, as I did in my agreement in principle speech on 19 March 2010, my acknowledgement of the role played by the Deputy Leader of the Opposition and Mosman Council in bringing this matter to our attention. The Deputy Leader of the Opposition, Jillian Skinner, has been excellent in the preparation and discussion of this bill.

She deserves full and due credit. I would also like to place on the record, as suggested by the member for Lane Cove, my own dogs—Chief the husky and Roxy the kelpie cross—both of whom would love the opportunity to go to an outdoor dining area or outdoor eating area. I place on record my acknowledgement of Leichhardt Council, which pioneered allowing dogs in outdoor eating areas. I also acknowledge the hundreds of thousands of people in our community who keep dogs, look after their dogs and exercise responsible pet ownership, and who would love to be accompanied by their dogs to outdoor dining areas or outdoor eating areas. They would do that responsibly.

The bill may not be a grand amendment in the history of the Parliament but it is an important contribution to cafe society and the culture of outdoor eating that has evolved in Australia in the past 20 years, facilitated by councils across New South Wales. It will encourage people to exercise dog ownership and handling in a way that involves them in their lives. They can have breakfast, morning tea, afternoon tea and meals accompanied by their dog. Without putting too high a premium on it, the bill is an important contribution to an evolving culture in our society. The New South Wales Opposition is pleased and proud about its role in bringing the issue to public attention and introducing a private member's bill to the House.

However, a Government whose point of distinction is that its bill refers to "outdoor dining areas" whereas our bill refers to "outside eating areas" is really grasping at straws. It is a Government that is stale and out of ideas and has run out of puff. It has no concept of improving life in New South Wales and it is waiting for the Opposition to serve up policies so it can grab them and misappropriate them for its own purposes. This Government is simply waiting for someone to put it out of its misery. In the great words of Paul Keating, it is a carcass waiting to be cut down. Time and the New South Wales electorate will cut it down. They will do so with great gusto on 26 March 2011. I can see that the member for Sydney is ready to leap to her feet. She will place on record her tribute to the New South Wales Opposition for bringing these great ideas to Parliament. As I said, we do not oppose the bill. Our bill is superior, but we will let the Government's bill go through.

Ms CLOVER MOORE (Sydney) [12.33 p.m.]: I strongly support the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010, which will allow dogs that are with their owner and on a lead to be in outdoor eating areas such as cafe and restaurant alfresco dining areas. As I have told this Parliament on many occasions, dogs play an important role in many people's lives, providing love, companionship and security and encouraging their owners to exercise. The health and wellbeing benefits of owning a pet are estimated to save the Australian economy more than \$4 billion a year. People walking their dogs create a sense of community and safety within neighbourhoods as owners talk to each other and more people are on the street or in parks at different times of the day.

While Australia has one of the highest rates of pet ownership in the world, governments and councils have had the attitude that pets are not a legitimate part of life and dog owners have been treated as second-class citizens. Many councils fail to provide adequate off-leash space to ensure dogs get the exercise they need. Dogs continue to be banned on trains and bus drivers can refuse to let a dog on board, giving owners no guarantee of transport to visit a vet or friends if they do not have a car. It is almost impossible for renters to find a home that will allow them to have pets and many apartments continue to impose blanket bans on pets.

These draconian restrictions adversely impact on people's lives, particularly people on low incomes who rent and people who use public transport and whose pet is an important part of their lives. I could tell the

Parliament stories of people, particularly public housing tenants living in the city, who want to visit a sick relative or take their pet to a vet but have serious issues because they cannot do so. I have long called for companion animal legislation that supports responsible pet ownership and that reflects contemporary needs but progressive changes to the Act have in the past largely focused on restrictions and punitive measures to address the small minority of irresponsible owners.

I welcome the bill before the House, which is about supporting responsible pet owners. Under the bill, owners who walk their dogs will be able to take a break with their pet and sit down for a drink or a meal. The bill will encourage owners to take their dogs out of the house or apartment for a walk when they meet friends for lunch or coffee because they will no longer have to tie it to a pole away from social interaction. Responsible dog ownership requires giving pets adequate exercise and outdoor time as well as time socialising with other dogs and people. Dogs that have this opportunity are better behaved when they return to their apartment or terrace house.

Speaking on a bill earlier today, I said that we are the most urbanised nation in the world. The majority of people we represent live in urban areas and, increasingly, many of them live in apartments. Cafes and restaurant owners will support this change; I know this. At the moment some reluctantly turn away customers with their dogs. Others break the law because, like most people in the community, they see no legitimate reason for the ban, which will be lifted under this bill, and savvy cafe owners know that dogs can make their establishment more welcoming and sociable.

This legislation will not have any impact on safety or hygiene. Dogs will have to be kept on the ground and on a lead. I understand that South Australia removed these restrictions in 2003. My, how progressive we are! It is now 2010. The City of Sydney understands the important role that pets play in people's lives and we support responsible pet ownership by balancing the rights and responsibilities of owners and their pets with the rights and responsibilities of others in the community. We conduct free microchipping and free dog obedience training and promote sharing and respect in our parks. We have expanded off-leash parks and now use the Sutherland Animal Shelter for impounded animals because it has the lowest euthanasia rate in Australia and a re-homing policy. Dog owners should not be treated as second-class citizens. They should be able to take their pets with them to public places. I acknowledge the bill recently introduced by the member for Terrigal, who has just spoken. It played a major role in encouraging the Government to introduce this legislation.

Mr Anthony Roberts: Say that again.

Ms CLOVER MOORE: I am happy to repeat that for the member for Lane Cove because I support outcomes and I believe that if a member of the Opposition puts up a good proposal it is a very sensible government that accepts it. That is what I do at the City of Sydney. If any councillor puts up a worthwhile idea it is embraced and implemented. I commend the Government for responding to the Opposition's very good idea and proposal. It is one that I have long supported and I think it is a progressive thing to do. I hope that if and when the Coalition is in government it will also respond to positive proposals from all members of Parliament. I acknowledge and thank the member for Terrigal for his part in achieving the outcome that the people of New South Wales will get as a result of this legislation. As I said, the bill will favour responsible pet ownership and our constituents will benefit.

The Sydney electorate has a strong culture of alfresco dining and also many proud dog owners. In fact, pets are often the major companions of many people living on their own in apartments in the city. I support this bill on their behalf and as the proud owner of a Staffordshire bull terrier, Banjo, who will enjoy joining Peter and me at one of the outdoor cafes in the city. The bill is a small step—I stress "small"—but an important one in recognising the importance of pets in our lives. I commend it to the House. I say to the Minister that I look forward to further reform that will allow pet owners to travel on public transport with their pets, as they do in London, and live legally in their apartments with pets, as they do in New York.

Mr ANTHONY ROBERTS (Lane Cove) [12.34 p.m.]: As the proud owner of a labrador, I contribute to debate on the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010. The Opposition does not oppose this bill, which is based on legislation introduced by the member for Terrigal, on behalf of the Deputy Leader of the Opposition. Earlier the member for Sydney commended the Government and the Minister for implementing this legislation. For far too long other States and jurisdictions around the world have led the way, thus ensuring that dog and cat owners have the same rights and access to services as everyone else in the community. As the electorate of my colleague the member for Ryde borders the Lane Cove electorate he would be aware that we have a strong culture of pet ownership. In fact, there are 1.2 million dogs in New South Wales, which represents about 70 per cent of dog ownership by families.

Mr Andrew Fraser: Name them! Whistle them up.

Mr ANTHONY ROBERTS: As the member for Coffs Harbour said, I could whistle them up, but I think we would be inundated and they certainly could not use public transport to get to Parliament House. After the passage of this bill I am sure that along the way they could get a drink of water at a cafe with their owners. The beauty of this amending bill is that it will allow dogs in outdoor areas, but only in certain circumstances. Sometimes legislation can be overcomplicated. In our day-to-day lives legislation passes through this Parliament that local government often has to enforce. I am sure that the member for Ryde would agree that that has been our experience in local government. Sometimes a member of the public takes a council to court because the legislation is not succinct enough, or it is too complex.

The Opposition's earlier proposals, which were very simple, have been changed somewhat. However, we will live with those changes and will not oppose this bill. The bill will provide a limited exemption to the existing prohibition on dogs in food consumption areas and maintain—as did the Coalition's private member's bill—the prohibition on dogs in any food preparation areas and human food consumption areas that are not outdoor dining areas. Members would have seen many outdoor dining areas in the city. The member for Sydney referred to, and Opposition members would be aware of, the emerging cafe and outdoor dining culture in the city of Sydney. We live in a marvellous city that might have health and transport problems and a raft of other difficulties, but this State Government has no say over our beautiful weather and surrounds. It has not yet been able to touch that, but we will wait to see whether it tries to do so.

One has only to walk or to ride a bicycle on one of the many bicycle paths and one will see many people enjoying the sun. Even in times of inclement weather they share time with their friends or families. As I said earlier, dogs form an integral part of the life of a family and they share many of a family's experiences. Dogs play an important part in the lives of older people in my electorate who have lost a partner, younger people who do not have a partner, and many families. People want to share some of their lives with an animal. The Minister and the member for Gosford said earlier that there are dangerous or restricted dogs. However, there are also dangerous people and those who should be restricted. Fortunately, they comprise a small percentage of the population. I think that 99.99 per cent of dog owners are responsible, good and loving people.

On behalf of my constituents I welcome this good legislation. I agree with the member for Sydney—and I am sure the member for Cronulla will reinforce this point—that the Government has taken up another great piece of Coalition policy. One or two changes have been made to this legislation, which I am sure would not pass a plagiarism test at any of our great universities. However, we still accept the amendments. The Opposition welcomes and supports the bill. I commend the Minister for introducing this bill and thank her for showing leadership in accepting our policy. I look forward to taking my dog—

Mr Malcolm Kerr: A beautiful dog.

Mr ANTHONY ROBERTS: He is a beautiful dog. The dogs of the member for Terrigal, Chiefie and Roxy, and my dog are very close. Undoubtedly, as a result of this legislation we will now be able to enjoy a cappuccino and a morning tea together at an outdoor dining area.

Mr ALAN ASHTON (East Hills) [12.45 p.m.]: I appreciate the great support from Opposition members and acknowledge that a bill similar to the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010 was introduced by the member for Terrigal. There were a few errors in that bill, which the Government corrected, but we appreciate the Opposition's support. I missed the names of the dogs of the member for Terrigal. I think one was named Roxy.

Mr Malcolm Kerr: Chiefie.

Mr ALAN ASHTON: On behalf of Annie Mae, my cattle dog cross bull terrier, I support the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010. There are not many outdoor cafes in the East Hills electorate but we are getting more of them, which is a good sign. In Europe, people like to sit outdoors in safety and in the fresh air. In the Bankstown community and in the Minister's community of Auburn, people like to be able to sit outdoors with their animals and have a meal, a cup of coffee or tea and enjoy the company of their friends. People depend more and more on animals not only for friendship. It has been proven that people in hospitals recover much more quickly when they have access to pets that are brought into the hospital and taken around the wards. Dogs walk up to older patients, wag their tails and cheer up everyone.

I have always spoken in debate on companion animals legislation. I acknowledge that this good bill recognises the benefits of owning a companion animal and protects the community from animals that are a nuisance or present a risk to public health and safety. Today many members spoke about their great love of pets, particularly dogs. However, some people cannot stand cats, dog or birds. I worry about those sorts of people. I have always taken the view that those who do not love cats, dogs, animals and the Beach Boys have a problem in life.

Mr Andrew Fraser: The Beach Boys?

Mr ALAN ASHTON: Yes, they fit in there. I will explain how later. Public health and food safety are key priorities of this Government. I am not trying to trivialise debate on this issue. It is true that dogs might present a risk to public health through the transfer of disease, which is why dogs will not be allowed inside eating areas and the like. However, it is the view of professionals in the New South Wales Food Authority and the Department of Health that it is difficult to argue any difference in the health risk between a well cared for and restrained companion animal and an assistance animal, such as a guide dog, which under the Act is currently allowed in food consumption areas. The member for Sydney related stories about people with guide dogs who could not access taxis or who were not allowed to get on buses and the like. Those stories are far too prevalent. I know that the community has moved on, even though occasionally the providers of these services have not.

The Government's advice is that, provided dogs are not permitted on table surfaces or in food preparation areas, any health risk will not be significantly different from the health risk in the general environment. Therefore, the bill addresses the risk by limiting dogs to outdoor dining areas where they must remain on the ground under the control of a competent person. I remind members that in South Australia and Victoria dogs are already allowed to be in dining areas if they are accompanying their owners. To minimise any health and safety risk, the bill clearly defines an outdoor dining area as not being enclosed and able to be entered by the public without passing through an enclosed area. This will minimise the risk of disease as well as the potential for a dog attack. Safety is a major priority for the Government.

While dog owners may wish to have greater freedom when they are with their dogs, the Government understands that this must be tempered with the expectation of members of the community that they are able to enjoy dining in cafes in society without risking their health and wellbeing. Importantly, the bill gives cafe operators the discretion to make a decision about whether to permit dogs in outdoor areas that best suits the interests of their business and customers. If the general feeling is that dogs are legally allowed to be present but are not generally welcome, the restaurant or business owner will make the decision. It is important also to remember that patrons want the choice of whether to dine at dog-friendly cafes.

Given the serious and obvious safety considerations of such a bill, the Government's key criticism of the private member's bill introduced by the member for Terrigal is that it fails to identify and address the many safety risks to the community. The Government's bill addresses these risks to avoid situations that could result in a dog attack. The bill provides that food must not be made available to the dogs and that they must remain tethered and under the control of a competent person at all times. The bill manages the risks posed by dangerous and restricted dogs for good reason—those dogs are listed in the Local Government Act.

The Government will establish a legal framework that will provide a balance between the benefits of owning a companion animal, such as a dog, with the need to protect the community from animals that may pose a nuisance or risk to public health or safety. This bill makes sure that we get the balance right in correcting the flaws in the Opposition's bill. The Government has listened and balanced the needs of the whole community. For those reasons I support the bill. Most people have opinions on all matters regarding animals—dogs, cats and the like. We will always be a better society when we can look after our animals as best we can. As humans, our basic role is to look after humans, but the way we treat all types of animals, including those in zoos, is important.

One of the biggest thrills for me this year was watching and following the story of the erstwhile Mr Shuffles, the baby elephant born at Taronga Zoo. I watched it several times on YouTube. Surely that story cheered people's hearts and reminded us of the joy we get from animals. Of course some animals are in zoos, but then people are able to see them and appreciate the need to protect them. Generations will grow up seeing those animals and knowing why we have to protect them—including my favourite animal of all, the tiger. Let us hope the Tigers have another great year this year.

Mr MALCOLM KERR (Cronulla) [12.52 p.m.]: The member for East Hills might have scored an own goal at the conclusion of his speech. I am glad that he will be able to continue to take his dog to the Nuns' Pool at Cronulla, which is opposite Shelley Beach. No doubt he has his coffee there in the hope of being mistaken for one of the Beach Boys or to get a glimpse of the *Sloop John B* on the horizon. I hope he continues to go to the Nuns' Pool and enjoy the *Good Vibrations* down there. The Companion Animals Amendment (Outdoor Dining Areas) Bill 2010 is based on legislation originally introduced by the Opposition. I spoke to the member for Terrigal and shadow Minister after publicity in my local newspaper, the *St George and Sutherland Shire Leader*, about problems occurring as a result of Sutherland Shire Council's attitude to dogs. I am pleased that the excellent Legislation Review Committee referred in its digest on page 11 to the Minister's agreement in principle speech, which states:

Advice from the NSW Food Authority is that there is no more risk of transmission of disease from dogs than from birds that often fly around an outdoor dining area.

Certainly, that is something with which those who have eaten in the various cafes in Cronulla Mall are familiar. The Minister went on:

As long as dogs are kept on the ground, and interaction between dogs and other people who are eating food is minimised, the food safety risks are low.

This legislation provides that when an operator of an outdoor dining area decides to allow dogs into that area, mandatory conditions must apply. The outdoor dining area must not be enclosed and must be able to be entered by the public without people passing through an enclosed area. The bill provides an explicit right for owners of outdoor dining rooms to decide, when allowed under a licence agreement or development consent, whether they will allow dogs into their outdoor dining areas. That is all that was sought in the Sutherland shire. As other members have said, there is a balance between the rights of dog owners and those who frequent outdoor eating areas. Hopefully, this bill, which is based on the earlier bill of the member for Terrigal, will strike the correct balance in that regard.

Mr ROBERT FUROLO (Lakemba) [12.55 p.m.]: Like many thousands of people in New South Wales, I enjoy the opportunity to frequent our outdoor dining establishments—cafes and restaurants. I seek out those opportunities rather than sitting inside because I much prefer to enjoy the fantastic weather of our wonderful city and soak up the sunshine and fresh air. Currently I do not own a dog, but have done so in the past. I understand how important they are to many people's lives. I understand also the need to codify and clarify regulations regarding outdoor dining areas and dogs. The Companion Animals Amendment (Outdoor Dining Areas) Bill 2010 correctly locates responsibility for dog ownership with the owner of the dog. It permits dogs in outdoor dining areas in certain limited situations. The bill also addresses a number of problems with the Opposition's bill, which have been raised already in this debate.

The Government's bill prohibits people from bringing dangerous or restricted dogs to suburban cafes. This issue was not clearly precluded in the Opposition's bill. To allow this is obviously hazardous and completely out of line with community expectations. People will not like the idea of sitting in a cafe knowing that an American pit bull is sitting next to them. The Government's bill provides control in those circumstances. The Government's bill requires dogs to be on leashes in cafes even when those cafes are located in off-leash areas. The Government is firmly of the opinion that there is no place for an unleashed dog in a food consumption area, and reflects this in the bill.

Moreover, the Government firmly believes that a potential health hazard exists when dogs are in food preparation areas as opposed to food consumption areas. Our bill provides for the presence of dogs in outdoor food consumption areas only. Additionally, the Government's bill requires that any dog present in outdoor dining areas be kept on the ground. This is for health and safety reasons, to prevent potential food contamination, and also to prevent dog attacks. These requirements are in contrast to the bill proposed by the Opposition.

The Government's bill addresses a major oversight in the Opposition's bill. Notwithstanding what the member for Terrigal has told members about the restaurant sector, his bill makes no mention of the need for the restaurant operator to have a say. Unlike the Government's bill, the Opposition's bill confers the right to take any number of dogs to a cafe and, consequently, places an obligation on the proprietor or operator to accommodate any number of dogs. The Government does not believe this gets the balance right. The Government's bill explicitly states:

This section does not confer any entitlement on a person accompanied by a dog to use any table and chairs or other apparatus provided in an outdoor dining area by a food business (within the meaning of the Food Act 2003) without the permission of the operator of the food business.

That is a sensible requirement. If I as an operator of a cafe or restaurant with an outdoor dining area felt that my patrons did not want dogs present in that area, I should be able to tell customers that the policy is that no dogs are permitted in the area. The Government's bill is explicit about that, which is important. It means that the right to bring a dog to an outdoor dining area extends only as far as the operator of the outdoor dining area is comfortable with its presence. Our bill addresses this oversight in the Opposition's bill by stating explicitly that even if the statutory conditions are met—that is, effective control with a leash, the dog kept on the ground in a food consumption, not preparation, area, and the dog is not provided with food—the permission of the operator of the food business is necessary for the presence of the dog.

In other words, food business operators who are assessing the expectations and values of their clientele and the community's desire for the type of restaurant they wish to operate may wish to have no dogs or only some dogs in their outdoor dining areas. The Opposition's bill does not expressly provide for a right of refusal by a café operator. The member for Terrigal, assisted by an explanatory paragraph in his speech, sought to rely on a presumption of common law private property rights. The Government's bill is a significant improvement on the Opposition's bill because it sets out clearly, in black-letter law, the choice that will be given to the café operator, while not disturbing his private property rights. Café operators, councils and the public need that clarity. The Government is giving it to them.

I reiterate that the Government fully accepts that the evolving café culture in New South Wales and the consequent rise in the phenomenon of footpath dining mean that more dogs may be present in outdoor dining areas than has been the case in years past. A few decades ago there barely existed the European-style footpath dining that now occurs in many local government areas, including my own. It is one of the features of the Canterbury city area that more and more outdoor restaurants and cafés are opening. People are enjoying the opportunity for alfresco dining and are voting with their feet. Outdoor cafés and restaurants are becoming more popular and are better patronised than they were in the past. It is important to provide clarity of the law in respect of the manner in which dogs should be dealt with.

The Government is setting in place a level-headed system to permit dogs to be in outdoor dining areas, but the legislation keeps the responsibility for dog behaviour where it belongs—with the dog owner. The legislation confers the prerogative of not having dogs at all on food premises on the operator of the food business. The Government is establishing a legal framework whereby the operator of the food business does not have to permit any dogs in his place of business, if he does not wish to, and whereby the operator of the food business will be able to make a judgement call about the suitability of particular dogs for his outdoor dining area, if he wants to do that. For those reasons, I commend the bill to the House.

Mr VICTOR DOMINELLO (Ryde) [1.01 p.m.]: My contribution to debate on the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010 will be brief. My understanding is that this amending legislation will provide for dogs to be permitted within areas where food is being consumed. Previously the Companion Animals Act 1998 prohibited dogs to be within 10 metres of a food consumption area. This bill overcomes that prohibition. The Government has consulted with the Restaurant and Catering Industry Association of New South Wales and the Local Government and Shires Associations. Thankfully they support the proposal to give restaurateurs a right to choose whether they allow dogs in outdoor dining areas.

The main point I wish to discuss during my speech, and for which I seek a response from the Minister during her reply, relates to the matter of notice. Given that the prohibition of dogs from cafés and restaurants has operated for 10 years or at least for a lengthy period, a presumption exists that, when people go to a cafe, dogs will not be allowed to be there. I support the intent of the legislation, which is to give restaurant operators a right to choose whether dogs are admitted, but my concern is for people who bring children to a cafe area and who presume that dogs are not allowed. My concern is what will happen when somebody brings a dog to a cafe and sits next to somebody who thinks that the presumption of no dogs being allowed still applies. The person who encounters a dog on the cafe premises may be frightened of dogs. He or she might not know that the cafe owner has decided to allow dogs on the premises.

I agree strongly with the comments made by the member for East Hills regarding people having affection for animals. I think it is laudable and it shows that people have good hearts. Only very few people dislike animals, and one would have to wonder about their motives and motivation. Nevertheless, there are good people who are fearful of animals. I know many people who were bitten when they were children, and as a result have remained scared of dogs. They do not hate dogs or wish them any harm, but they are genuinely frightened of dogs as a result of a phobia they have had since they were young. If such a person was seated in a cafe area and held the presumption that dogs would be excluded, as they currently would be entitled to do, that

person may become concerned or even fearful, particularly if a dog looks menacing, even though it may be the friendliest dog on earth, and particularly if children are present. Their levels of anxiety may be heightened unnecessarily.

Given that a presumption exists, fairly based, that dogs are not allowed in areas where food is being consumed, if a restaurant owner decides to allow dogs in an outdoor dining area after this legislation is passed, the restaurateur or cafe owner should provide notice. He or she should exhibit a sign stating, "This is a dog friendly cafe", or "Dogs are allowed in this area", so that people will be able to make a decision about whether they will go to the premises. In concluding my brief contribution to the debate, I reiterate my general agreement with the intent of the legislation. However, I believe the minor clarification I have suggested will go a long way towards relieving a great deal of anxiety or avoiding potentially anxious situations that may arise in the future.

Mrs BARBARA PERRY (Auburn—Minister for Local Government, Minister Assisting the Minister for Planning, and Minister Assisting the Minister for Health (Mental Health)) [1.06 p.m.], in reply: I thank all members who participated in debate on the bill—the shadow Minister and member for Terrigal, the member for Miranda, the member for Sydney, the member for Lane Cove, the member for Cronulla, the member for East Hills, the member for Lakemba and the member for Ryde. I thank the Opposition spokesman for his comments and note that the Opposition supports the bill. I particularly thank the member for Sydney for her support for the bill and her continued advocacy for pet owners in the State.

Among other significant issues canvassed during the debate, considerable discussion was focused on the fundamental errors of the private member's bill introduced by the Opposition. First, the Opposition's bill would have allowed dogs in outdoor food preparation areas. Members opposite have not even understood this aspect of their own bill. It would have allowed dogs in food preparation areas. Second, the Opposition's bill would have forced a café owner to produce a tape measure and, ridiculously, check whether or not a lead measures one metre. That would have had to be done every time a dog owner sat down for a coffee. That is not only outrageous and ridiculous, but also very onerous for café owners who would have to do the measuring.

I would have thought that the shadow Minister would have realised that a better way of dealing with the situation would be to establish effective control. That is the definition in the Government's bill and it is consistent with the definition in the Companion Animals Act. That means a person who is competent must have effective control of his or her dog. I state unashamedly that such a provision does away with the issue of how long a dog's lead is. Effective control is a stronger and better test and it avoids a cafe owner having to produce a tape measure to find out the length of a dog's lead or leash. The Opposition's bill also failed to deal properly with the issue of off-leash areas. Consequently, the Government's legislation deals with that issue.

The member for Ryde raised the issue of notice. I note that the private member's bill put forward by the shadow Minister would have meant that any dog anywhere would have been allowed, firstly, without the restaurateur having an explicit right and, secondly, without the vetting of any dog, be it dangerous or otherwise. So it is interesting that the member raised that notice, given that the Coalition's bill would have allowed any dog anywhere. Having said that, the owners of cafes that are dog friendly have already taken the initiative and publicise—one expects business people to promote their business—the fact that their coffee shop is dog friendly.

I expect the presence of children at outdoor dining tables to inform an owner's decision as to whether or not to permit a dog. It might be fair to raise the issue of notice, but that is dealt with by virtue of the fact that cafe owners will be sensible; firstly, they want to promote their business and, secondly, they will note the presence of children. In conclusion, the Government's bill seeks to preserve the balance between public safety, food safety and the companionship provided by dogs. Importantly, it does not give a veto to the pet owner to trump the wishes of the restaurateur. On the contrary, it states that even if the criteria for dogs in outdoor eating areas are met, if a restaurant operator does not want dogs in his restaurant no dogs are allowed.

I remind members of those three criteria: The dog must be on the ground on a secured leash and not provided with food, in no circumstances is a dangerous or restricted dog permitted in an outdoor eating area, and the outdoor dining area must not be enclosed and must be able to be entered by the public without passing through an enclosed area. An area is enclosed if it is substantially or completely enclosed by ceiling or roof and walls and windows. In preparing our bill, we have taken advice from the Food Authority and the Department of Health, and we have received the support of the New South Wales Local Government and Shires Associations, as well as the restaurant and caterers organisation.

There is an element of commonsense in this bill that is absent from the private member's bill on this subject. I have addressed some of those issues. I reiterate: The bill of the member for Terrigal would have allowed dogs to roam free around café tables in off-leash areas, increasing safety risks for café patrons as well as café workers. The Government is proud of its efforts to maintain and increase amenity when it comes to outdoor dining and companion animals, and we have treated this issue in a responsible, level-headed way. The bill has the balance right, and I commend it to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

STATE EMERGENCY SERVICE AMENDMENT (VOLUNTEER CONSULTATIVE COUNCIL) BILL 2010

Agreement in Principle

Debate resumed from 22 April 2010.

Mr ANTHONY ROBERTS (Lane Cove) [1.13 p.m.]: It is with great pleasure that I speak on the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010. I place on record the Coalition's continuing support and gratitude for State Emergency Service volunteers. I acknowledge the presence of the member for Wagga Wagga and the member for Lismore who are great supporters of their local State Emergency Service volunteers. I reiterate the New South Wales Liberal-Nationals Coalition's full support for emergency service workers, and volunteers in particular. The purpose of this bill is to amend the State Emergency Service Act 1989 to establish the State Emergency Service Volunteer Joint Consultative Council. The proposed council will consist of the State Emergency Service commissioner, who I understand will chair the council; three members of staff of the State Emergency Service appointed by the Minister on the recommendation of the commissioner; and the President of the New South Wales State Emergency Service Volunteers Association, Charlie Moir.

I know Charlie personally, as do many members of this place. Charlie is a magnificent individual who works tirelessly. State Emergency Service volunteers are in good hands as long as Charlie is there. He is committed, devoted and dedicated. He reflects what is a volunteer in this nation, particularly this week, the National Week of Volunteers. It is high time we commended not only Charlie but also his executive team and all members of the volunteers association. Further, two persons will be appointed by the Minister on the recommendation of the State Emergency Service Volunteers Association, one of whom will be a volunteer officer who is a deputy to a regional controller or is a local controller or a unit controller. I understand that the council will advise and report to the commissioner on any matter relevant to volunteer members of the State Emergency Service unit.

The latest statistics from the State Emergency Service [SES] show that in March this year across New South Wales the SES responded to the following emergencies. It is important to place this on the record because we are talking about volunteers, not paid employees of government. The New South Wales Liberal-Nationals have always held the view that volunteers need a voice. In March alone SES volunteers responded to 36 flood emergencies; 541 storms; with community first responders, 27; flood rescue, 4; road crash rescues, 56; other rescues, 37; community emergencies, 92; searches, 23; and others, 200. Effectively, that is a total of 1,016 responses in their combat role. With 226 units located throughout New South Wales and about 10,000 volunteers, the State Emergency Service is highly effective and efficient as a combat agency.

The people of New South Wales recognise and realise that when they go to bed of an evening and are sleeping soundly in their beds during inclement weather or storms, SES volunteers leave their families behind and put their lives at risk. As the member for Blue Mountains knows, the experiences of the State Emergency Service are the same as those of the Rural Fire Service. Often volunteers will return home after being deployed

to save life, property and livestock from floods and find that their premises have been damaged, their family has been evacuated or their home has burnt down. We have all heard the horrific stories of State Emergency Service volunteers as well as Rural Fire Service volunteers.

The State Emergency Service is a wonderful organisation. Being married to a SES volunteer, I know well the fear when my wife, Alicia, responds to a call for assistance. SES volunteers can be deployed anywhere from Blacktown to Broken Hill, and there is always a fear that something may happen to them. I welcome the funding changes for the State Emergency Service, which are tremendous. The Hunter Hills SES unit, which is my wife's unit, has for far too long been operating a truck with no air-conditioning. Also, when the truck is deployed on cold, wet nights the only way to maintain visibility through the windscreen is by wiping it with an old singlet. That is twenty-first century technology! I understand that a new truck, which I assume will have air-conditioning, is on the way to Hunters Hill SES.

The budget papers indicate that State Emergency Service full-time staff increased from 133 in 2005 to 178 this financial year, so that the service's professionalism is generally in line with that of the Rural Fire Service. Once again I pay tribute to the member for Blue Mountains. Management-wise both organisations are streamlined and based on what I would call a military structure. If some other departments were organised so well to respond this State would be in a much better position generally. Whilst all volunteers are professionals in their level of training, some are salaried and some are not. The number of salaried staff of the State Emergency Service has increased but I want to put on record that all members of the SES are professional in everything they do. Effectively this bill will enable volunteers to have greater input in the decision-making process on behalf of the commissioner and his paid staff.

Despite the fact that volunteers carry out the vast majority of SES activities, up until now there has not been a formal mechanism for volunteer input at senior levels of the organisation. It does happen but in the past it has been on an informal basis. This bill provides some structure and is generally welcomed by the community. Consistent with the Liberal-Nationals priority of devolving centralised bureaucracy and involving people in decisions that affect them, this legislation goes a long way towards making sure that the organisation is inclusive. We are moving a long way to ensure that volunteers are protected with good equipment and that the organisation listens to their needs and requirements at the coalface.

Political will and commitment are needed if the council is to work. It would be awful if such a great initiative falls by the wayside so that the council becomes merely a sounding board that is never listened to, rarely meets, and has no power. Any volunteer organisation that is not listened to becomes demoralised. As all members know, our community's strength is in its volunteers. I strongly counsel the Minister to take personal charge to ensure that the ideas of volunteers are listened to and acted upon. The Opposition will not be opposing this bill. I would always like more volunteers to be represented on the committee of such an organisation, and volunteers must be listened to. The organisation must listen, act and engage in order to get great outcomes. I look forward to receiving information from those first meetings. I commend the bill to the House.

Mr PHIL KOPERBERG (Blue Mountains—Parliamentary Secretary) [1.24 p.m.]: I have great pleasure in supporting the State Emergency Service (Volunteer Consultative Council) Amendment Bill 2010. I commend the Government and the Minister for recognising the absolute importance of giving volunteers a capacity to contribute to their own future. It is some years since I advocated for and introduced a not dissimilar provision to establish an advisory council for the Rural Fire Service, which I think became law when the Hon. Bob Debus was the Minister. The establishment of the Rural Fire Service advisory council paid mighty dividends by enabling members of that service to participate in the management of programs to protect a vast and irreplaceable resource. And so it is fitting that the State Emergency Service should be able to bring to the assistance of management, through the proposed consultative council, the concerns, the aspirations and ideas of the many thousands of volunteers.

As the member for Lane Cove said, the only difference between those who are salaried and those who volunteer their services, in their tens of thousands, in front-line management of our emergency services and the agencies that protect us, is that one is paid and the other is not. They both provide invaluable, professional, dedicated and passionate service in the protection of residents throughout New South Wales. Men and women who are the lifeblood of the State Emergency Service come from 228 communities across the State, from the extended plains in the State's west to the sprawling suburbs of coastal cities. In recent years we have seen the yield of their work. In 1999 the eastern suburbs of Sydney were devastated by that now infamous hailstorm event when thousands of volunteers from the State Emergency Service and other agencies came to the aid of 30,000 to 40,000 stricken households.

More latterly the State Emergency Service has assisted people affected by vast flooding on the north coast and in parts of central New South Wales, and that work has been continuous. That event has disappeared from the newspaper headlines but the volunteers are still out there, day in, day out, doing what they can to mitigate the impact of that flooding on families, farmers and businesses in those areas. The work we see on our television screens and in the newspapers is not the only work done by the State Emergency Service. State Emergency Service volunteers go out quietly and unassumingly almost daily to attend smaller incidents, to help people when a tree has fallen on a house or floodwaters have trapped a vehicle. We do not see or read about that.

Behind the scenes, hundreds if not thousands of volunteers do an enormous amount of non-headline-grabbing work, from staffing communication centres and preparing food, to assisting in training and doing an endless list of other duties. Members opposite have often questioned the numbers that the Government says, quite correctly, make up the emergency service personnel. The Opposition needs to bear in mind that volunteers are not only fire fighters or State Emergency Service workers but also the many thousands of people who do work behind the scenes. Their work is just as valuable as that done by others because it helps keep the front-line workers going. The old adage that an army marches on its stomach is as relevant in volunteer and other emergency services as it is in the military. Hundreds of people are preparing meals, mapping, providing intelligence and reconnaissance, establishing communications, and so forth. They are all part of the management of emergency work and as such their respective organisations should have a say in the way things are done.

Even now as we speak we see ongoing work in the north of New South Wales as a consequence of floods. More than a thousand air missions have been flown, resupplying isolated communities with essential items, helping schoolchildren to reach their homes and families for the Easter holidays, providing medical evacuation, and undertaking flood reconnaissance and volunteer support. State Emergency Service volunteers have an important role to play in every aspect of these and other emergency operations. They are at the frontline, rescuing people from flooded properties, undertaking temporary repairs to storm damaged buildings, extracting injured people from motor vehicle accidents, and searching for lost or missing persons. Volunteers can be found also working quietly, and mostly out of the public eye, in tasks such as logistics, administration, training, media, communications, engagement and operations.

It is only proper that these volunteers are given a voice. It was the Greek Stoic philosopher Epictetus—and I thank Emil for that pronunciation, because I spent quite a time running around Parliament House consulting the many scholars on how to correctly pronounce that name last night; a monumental task—who said, "Nature gave us one tongue and two ears so we could hear twice as much as we speak." That is a very apt saying in regard to this bill, which gives the voice of the volunteers true meaning; a voice to which management will listen and it will enhance the operations of the State Emergency Service and pay enormous dividends and make the volunteers feel as if they are part of the management of the organisation that underpins their efforts. I commend the bill to the House.

Pursuant to standing orders business interrupted and set down as an order of the day for a later hour.

[The Acting-Speaker (Ms Diane Beamer) left the chair at 1.32 p.m. The House resumed at 2.15 p.m.]

QUESTION TIME

[Question time commenced at 2.21 p.m.]

PROPERTY TRANSFER FEES

Mr BARRY O'FARRELL: My question is directed to the Premier. How does the Premier justify trying to use the cover of the Federal budget to slug average Sydney homebuyers an extra \$1,000 by increasing the State's property transfer fee, when New South Wales families are already paying the price of Labor's incompetence through the Government's new registration tax and skyrocketing electricity prices?

Ms KRISTINA KENEALLY: Today the Minister for Lands, Tony Kelly, announced new measures to strengthen the equity of New South Wales property transactions and to improve the security of the Torrens title system. The Government will introduce new security measures to ensure document security and property

ownership to protect property owners from the growing risk of property fraud. I am advised that this will include an additional six authentication measures, such as a new watermark and a security trust seal tailored specifically for certificates of title.

The SPEAKER: Order! I call the member for Wakehurst to order.

Ms KRISTINA KENEALLY: As part of these changes, ad valorem charges will be introduced on land transfer fees for properties valued at over \$500,000. I am advised that 70 per cent of property registrations will remain unaffected by the ad valorem charges. Having a land title system that is efficient, reliable and guaranteed is essential for a strong State economy and a stronger New South Wales. Western Australia, Victoria, Queensland and South Australia have ad valorem fees on transfers. The proposed ad valorem rates maintain New South Wales as middle ranking in government land-transfer charges.

FEDERAL BUDGET

Ms ALISON MEGARRITY: My question is addressed to the Premier. What is the New South Wales Government's response to the 2010-11 Commonwealth budget?

Ms KRISTINA KENEALLY: This is a great budget for New South Wales families and a great outcome for New South Wales businesses—an extra \$2.1 billion directly benefiting New South Wales families and communities in health funding. That is a welcome injection of funding into the health system and into the health of New South Wales families. There is more for hospitals, for clinics and for emergency departments: \$72 million for emergency departments to enable faster treatment; \$161 million to meet national targets for emergency waiting times; \$40 million to boost elective surgery; \$209 million towards public elective surgery targets; \$527.6 million to deliver subacute beds; and \$56.4 million in flexible capital funding to spend on the most pressing needs, to be determined by the New South Wales Government.

Mr Alan Ashton: Big numbers.

Ms KRISTINA KENEALLY: They are big numbers, as the member for East Hills points out, delivered by a Federal Labor Government. The Commonwealth Government has also delivered a significant boost to primary health care services, helping patients to receive the care they need in the most appropriate setting and easing the load on our public hospitals—the right care, at the right place, at the right time. Yet again, it builds on the historic reforms that we signed at the Council of Australian Governments. Yet again, Labor is the party of health reform. Yet again, Labor is the party that is building a sustainable health system. And, yet again, it is a contrast to the decade of demise during which the member for North Shore and the Leader of the Opposition said and did nothing. Their silence might be the best approach given that the alternative is the Liberal Party's "smoke yourself to death" health policy, as outlined by the Minister in this place yesterday.

Mr Alan Ashton: Big tobacco.

Ms KRISTINA KENEALLY: There may be more to be said on the subject of big tobacco later today. The other win for New South Wales is in infrastructure—\$1.9 billion in infrastructure funding, with a big focus on the challenge of moving freight off roads and onto rail. New South Wales' share of the States' funding in 2010-11 for road and rail infrastructure is around 35 per cent.

The SPEAKER: Order! The member for Baulkham Hills will come to order.

Ms KRISTINA KENEALLY: This Federal budget invests more than \$1.3 billion in New South Wales roads and rail, and supports several important projects—\$413 million for upgrading the Pacific Highway; \$256 million for the Hume Highway bypass in the great seat of Albury; \$34 million for the Great Western Highway duplication; \$34.5 million for the Alstonville bypass; \$247 million for the Hunter Expressway, the F3 to Branxton; \$65 million for the Kempsey bypass—

The SPEAKER: Order! Members will come to order.

Ms KRISTINA KENEALLY: Members opposite do not like good news. They do not like investment in road and rail in New South Wales.

The SPEAKER: Order! I call the member for Murray-Darling to order.

Ms KRISTINA KENEALLY: There is \$201.5 million brought forward to 2009-10 for early commencement of the Holbrook bypass. All of this adds up to a great deal of money for road and rail infrastructure in New South Wales. I am sure the Leader of The Nationals will be pleased to hear about this. I know he has an interest in reducing congestion on our regional road networks, and indeed he has an interest in roads in general. After all, who could forget the parliamentary study trip he undertook to Singapore in 2005? What did the shadow Minister for Roads learn on this study tour? What insights did he bring back to New South Wales? I refer the House to his report on the Singapore leg of his trip, in which he said:

Whilst my brief stay in Singapore did not allow for a meeting with roads officials, I conducted inspections of roads infrastructure and observed roads, including traffic lights, road signage and transit lanes.

It is amazing the amount of study one can undertake in the limo trip from the airport to the Shangri-La! The report is recommended reading. We might return to it in coming days. While we complete the Pacific Highway, improve road safety for regional communities and get more freight off roads and onto rail, the Leader of The Nationals can relax. He can sip his Singapore Slings safe in the knowledge that we will continue to provide the infrastructure that regional communities need whether he is there to see it or not.

HOSPITAL INFRASTRUCTURE FUNDING

Mr ANDREW STONER: My question is directed to the Premier. Given her Government's repeated promises to build at a cost of more than \$1 billion new hospitals at Tamworth, Dubbo, Wagga Wagga and Bega, is not the Federal Government's budget allocation of \$110 million over four years, or just 10 per cent of available Federal health infrastructure funds, another blow to these communities and a further sign that New South Wales is failing to get a fair share of funding for critical projects?

The SPEAKER: Order! Members on both sides of the Chamber will come to order.

Ms KRISTINA KENEALLY: It is worth remembering that if we had followed the negotiating strategy and policy positions of the Leader of the Opposition during the Council of Australian Governments health reform—

The SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Ms KRISTINA KENEALLY: —\$722 million would not be coming to this State as a result of that COAG agreement, an historic agreement led by the Prime Minister in which the position taken by this Cabinet and this Government was the one that prevailed. If the Coalition had been negotiating in Canberra we would not have that \$722 million. One look at the health budget makes it clear that a number of communities around New South Wales want their hospitals to be the next cab off the rank.

That is understandable once they have seen that the New South Wales Government has committed almost \$1 billion to the Royal North Shore Hospital, as well as the spectacular second stage of the new hospital at Liverpool, a start to the hospital at Orange base, a partnership with public health care in Dubbo, a new Narrabri hospital about to commence, and a new wing at Nepean in the coming year. During our term in government we have built or rebuilt virtually every major hospital in this State. Opposition members do not like hearing the truth. Because of the Commonwealth and State Labor governments—

The SPEAKER: Order! Members will cease interjecting.

Ms KRISTINA KENEALLY: —we have reached the historic reform that we have—

The SPEAKER: Order! I call the Leader of The Nationals to order.

Ms KRISTINA KENEALLY: —which has seen the Commonwealth guarantee \$1.7 billion into New South Wales over the next four years.

The SPEAKER: Order! I call the member for Epping to order.

Ms KRISTINA KENEALLY: There is a guaranteed \$1.9 billion in the four years to 2014, with the Commonwealth to pick up 60 per cent of the funding going forward. This Government has delivered a great deal for families in New South Wales.

NURSING PROFESSION

Mr ROBERT COOMBS: I direct my question to the Minister for Health. How is the New South Wales Government recognising the hard work of nurses in our health system?

Ms CARMEL TEBBUTT: The member for Swansea has a keen and close interest in issues affecting nurses and midwives in this State. As today is International Nurses Day, it is appropriate for us to recognise and celebrate the dedication and professionalism of nurses and midwives and their contribution to our health care system right across New South Wales. In recognition of International Nurses Day, the Government has awarded four scholarships to nurses at the forefront of their profession. Critical to the development of the nursing profession is the opportunity for nurses and midwives continually to upgrade their skills and knowledge. These scholarships are named after Judith Meppem, the State's—

The SPEAKER: Order! There is too much audible conversation in the Chamber. Members who wish to conduct private conversations will do so outside the Chamber.

Ms CARMEL TEBBUTT: As I was saying, these scholarships are named after Judith Meppem, the State's first Chief Nursing Officer, who made a wonderful contribution to the nursing profession throughout her time in that position.

The SPEAKER: Order! I call the member for Coffs Harbour to order.

Ms CARMEL TEBBUTT: These new scholarships, valued at \$12,000 each, provide nurses and midwives with an opportunity to examine contemporary practice and models of care. I congratulate the scholarship recipients with whom I had an opportunity to meet today: Jason Maher, a nurse practitioner from Tomaree hospital emergency department; Margo Asimus, a nurse practitioner in wound management from the Hunter New England Area Health Service; Fiona Hodson, a clinical nurse consultant from the Hunter Integrated Pain Service; and Margaret Dane, a clinical nurse consultant in palliative care from the Greater Southern Area Health Service. I have no doubt that the knowledge and understanding these nurses and midwives gain from their scholarships will contribute to the ongoing development of New South Wales nursing services.

We are proud of our achievements regarding the nursing profession. For example, we have seen a significant increase in the number of nurses and midwives who work in our public hospitals—an increase of around 10 per cent in the number of nurses and midwives over the past four years. A record 43,450 nurses and midwives currently are employed by the State to provide around-the-clock care to more than 1.5 million patients who are admitted to our public hospitals every year. This market increase is due not just to our investments in increased hospital capacity and our commitment to improve wages and conditions but also to our targeted recruitment and retention strategies. I am proud to say that our nurses are amongst the highest paid in the country and that is what they deserve.

In 2009-10 we also spent more than \$40 million on recruitment and retention strategies for nurses and midwives, which included \$15 million for education and continuing professional development. These four scholarships are just part of what we are doing to provide for the ongoing professional development of nurses. Over the past three years the Government has funded 80 new clinical nurse educator positions. We have also provided funding for an additional 30 clinical initiative nurses, and we lead Australia with 151 nurse practitioner positions across the public health system.

As well as improving patient services, the continued investment in nurse practitioner roles is an important recognition of these nurses advanced skills and the significant role that they play within the health workforce. Nurses and midwives, who are the public face of our health system, work in our hospitals, in our aged care facilities and in our community health centres, and are an indisputable part of our health system. On International Nurses Day, which is celebrated on the birthday of Florence Nightingale, we pay tribute to our nurses. We recognise that the nursing profession has changed greatly since Florence Nightingale's day.

Today when I was talking with scholarship award recipients they shared with me some of the fundamental reforms that they think have significantly contributed to improving the nursing profession over the past 10 or 15 years. They mentioned four things that I believe to be important: first, the role and importance of ongoing education; secondly, the availability of a career structure for nurses; thirdly, the recognition of the knowledge and skills that nurses bring to the health care system; and, fourthly, the respect for nurses autonomy and their role as clinical leaders. Those four things underscore how far we have come in the development of the

nursing profession. The New South Wales Government is proud of the role that it has played in enhancing all four of those aspects of reform in the nursing profession. The things that have not changed with regard to nurses are the care, compassion and commitment that they bring to their role. For this we salute nurses and midwives today on International Nurses Day.

WHISTLEBLOWER TREATMENT

Mr ADRIAN PICCOLI: I direct my question to the Premier. Given that yesterday she asserted that she believed in the presumption of innocence and in the independence of the Independent Commission Against Corruption [ICAC], why did she allow her staff to distribute a dirt file on whistleblower Tim Horan after he made a formal complaint about alleged corruption?

Ms KRISTINA KENEALLY: My office issued a press statement that is on the public record.

CANCER PLAN

Ms ANGELA D'AMORE: My question—

The SPEAKER: Order! The member for Drummoyne has the call. Hansard cannot hear the question.

Ms ANGELA D'AMORE: I address my question to the Minister Assisting the Minister for Health (Cancer). What is the latest information on the five-year cancer plan for New South Wales?

Mr FRANK SARTOR: On a number of occasions I visited the electorate of the member for Drummoyne, who has a strong interest in this matter, and we dealt with cancer issues. Yesterday we touched on our success with our plans to reduce smoking in this State, which has been extraordinary. This morning I met with Action on Smoking and Health [ASH]—another organisation that is committed to reducing smoking—which has a lot of ideas about how to reduce smoking further to meet our 2020 target of getting smoking down to 10 per cent. Smoking is only one part of the cancer challenge. Very few people in our community have not been affected by cancer. I dare say that not one member of Parliament has not been close to someone or known someone who is reasonably close to a person who has gone through the scourge of cancer.

In 2003, in an Australian first, this Parliament unanimously passed the Cancer Institute (NSW) Act, which was adopted and which in 2003 resulted in the creation of the Cancer Institute. In 2004 we then adopted a cancer plan and in 2007 adopted a revised new cancer plan. The Cancer Institute is now working on a new five-year plan for 2011 and 2015 that will further advance our gains in this important area.

I can advise the House that yesterday the first of a series of expert consultation workshops on the development of the next cancer plan took place. The focus of the workshops was on research, support and strategy. For example, the Cancer Institute is looking at a number of integrated cancer research centres where we can integrate research and make sure we maximise our resources to advance this wonderful cause. Yesterday we brought together 60 of the State's leading cancer specialists and researchers in health prevention. Obviously, those opposite want me to talk about the Opposition and tobacco, and I will come to that. Just give me a minute. I have some relevant issues to present.

The SPEAKER: Order! Members on both sides of the Chamber will come to order.

Mr FRANK SARTOR: Opposition members just do not want to listen to this good solid stuff. They want me to expose what they do. I am happy to oblige, but I just ask for a minute. The State's new chief cancer officer, Professor David Currow, provided me with an update on the consultation workshops late yesterday.

The SPEAKER: Order! I call the member for Terrigal to order.

Mr FRANK SARTOR: From next week to the end of June further expert sessions will focus on other priority areas for cancer prevention in this State.

The SPEAKER: Order! I call the member for Bathurst to order.

Mr FRANK SARTOR: They include melanoma, clinical trials, breast cancer, cervical cancer, clinical educational services, and Aboriginal and Torres straight Islanders, which is a particular area of concern. The

patterns of instances of more culturally related cancer must be better addressed. Professor Currow advised that the next five-year plan will set detailed programs across the five pillars of the cancer effort: prevention, early detection, improved services and professional development, research, and improved data and information. I know I speak on behalf of all Government members in thanking those cancer specialists for participating in these workshops and for their contribution to the development of the new cancer plan. Opposition members might be interested to know that Professor Currow expressed the view that the greatest gains we can make remain in the area of prevention, particularly for further progress on smoking prevention.

Incredible success with prevention is happening in this State. Yesterday, of course, I informed the House that smoking rates have fallen from 24 per cent to 17.2 per cent over the past 12 years. That success is being mirrored in other areas such as sun-smart behaviour in school children and, of course, my recent announcement of our program to crack down on unauthorised practices in solarium. While the Government is engaging with the community and achieving success in driving down the rate of smoking, it seems that the Opposition continues to be controlled by its nicotine-tainted donations. Yesterday when I raised this issue in good faith, because it is an important issue of public policy, we heard an angry, frothing denial from the member for North Shore. Incidentally, last night at 11.30 p.m. I had an amazing experience.

The SPEAKER: Order! The House will come to order.

Mr FRANK SARTOR: I went where most of us go at that time of night when the House rises—into the car park. I was confronted by the member for North Shore. She was still frothing. She was still angry. Although I have a very calming effect on most people, my charm just did not work with her.

The SPEAKER: Order! Members will cease interjecting.

Mr FRANK SARTOR: If I was not such a shy and retiring type, I would feel quite intimidated. Mr Speaker, we ought to put forward a case for danger money in this House. No member should be subjected to that sort of experience at 11.30 at night after a hard, honest day's work in this House exposing the hypocrisy of the Opposition. What better cause could there be? Her argument was a straw man anyway because the Liberal Party takes donations. The Liberal Party, The Nationals and the Millennium Forum that exists—

Mr Adrian Piccoli: Point of order: I refer to Standing Order 129. I do not recall the question being about donations—but we disclose ours, as opposed to that side.

The SPEAKER: Order! The member for Murrumbidgee will resume his seat. I will hear further from the Minister.

Mr FRANK SARTOR: Nothing is more important in cancer control and the cancer plan than reducing the incidence of smoking. That is why it is so important for political parties to act with some integrity in this matter. That is why the Labor Party in 2004 ceased accepting donations from tobacco companies.

The SPEAKER: Order! I call the member for Clarence to order.

Mr FRANK SARTOR: Of course, the Opposition has not received donations just from British American Tobacco. It has decided to go further afield internationally.

The SPEAKER: Order! The Leader of The Nationals will come to order.

Mr FRANK SARTOR: In my hand I hold a declared donation of \$10,000 from Mr Pingy Wong and Mrs Ying Lau of the Tung Chit Tobacco Company of Hong Kong. The Opposition goes abroad to raise \$10,000 from tobacco companies to fund its political activities.

Mr Adrian Piccoli: Point of order: I refer again to Standing Order 129. The Minister knows that their donations increased the propensity to get a development application approved. I do not think he should be lecturing anybody about donations.

The SPEAKER: Order! The member for Murrumbidgee will resume his seat. The answer is relevant to the question asked.

Mr FRANK SARTOR: I am not here today to upset the member for North Shore because I know how sensitive she is. However, I am disappointed in another Opposition member for whom I have had high regard.

I considered her to be persistent in the face of quite a few errors, but she is genuine in what she does and she keeps trying. I refer to the member for Willoughby. I had always thought very highly of Gladys. She is a decent, earnest sort of person who has a go, gets it wrong, but keeps trying; you like it when they keep trying. Between April 2005 and March 2006 the member for Willoughby happened to be the shadow Minister for Cancer and Medical Research. She really cared about the issue and exuded a certain amount of passion for it in this House. She said cancer was the current scourge on society.

The SPEAKER: Order! I call the Leader of The Nationals to order for the second time.

Mr FRANK SARTOR: On 20 June 2003 Gladys Berejiklian said, "I hope that in a few centuries when people are looking through history books they will wonder in amazement that so many people suffered cancer." She was someone who was passionate and cared about this issue. We agree entirely with her sentiment. She started out with so much promise but, of course, if we are serious about getting rid of the scourge of cancer, surely we are serious about not supporting or promoting the most notorious cause of cancer. Not long after Gladys left that job, having been viewed with such passion to reduce cancer, she accepted donations from British American Tobacco Australasian in 2008. Like a stone in a river that remains bone dry inside, she managed to learn nothing in her role as shadow Minister for Cancer and Medical Research.

The SPEAKER: Order! The member for Willoughby will contain herself.

Mr FRANK SARTOR: It defies belief that the earnest member for Willoughby—

Mr Adrian Piccoli: Point of order: I refer again to Standing Order 129. The answer has been going on for long enough. It just proves that the Government has nothing. With all the problems in health this is the only thing the Minister can talk about. It just proves he has nothing.

The SPEAKER: Order! I ask the Minister to commence concluding his answer. The member for Willoughby will contain herself.

Mr FRANK SARTOR: I begin my conclusion by stating that, having overseen the portfolio of Cancer and having been so passionate about it, and having experienced the realities of this horrible disease, it is fair to say that the would-be Minister demonstrated an amazing lack of empathy and intelligence by accepting donations from such an egregious source. The Opposition continues to accept donations from tobacco companies, yet professes a desire to lead the State in health care.

MARINE RESCUE

Mr PETER BESSELING: I address my question to the Minister for Ports and Waterways. What measures have been put in place to support the ongoing functions of the newly formed Marine Rescue New South Wales at Port Macquarie, Camden Haven and Harrington?

Mr PAUL McLEAY: I thank the member for Port Macquarie for his question and for his ongoing interest in the hard work of volunteers who help to keep our waterways safe. Marine Rescue New South Wales is a non-government organisation with more than 2,300 members throughout the State. Each year that organisation performs more than 2,500 rescues when our boaters are in trouble. When people call triple-0 or let off a flare, they need to know that someone is there, and invariably they find that the newly formed Marine Rescue New South Wales volunteers, with their new uniforms and equipment, are ready and able to keep our communities safe.

Marine Rescue New South Wales supports and conducts search and rescue operations. It also provides marine VHF radio monitoring along the coast and assists with water traffic control in major aquatic events. The organisation's volunteers also carry out key boating training and education for their local communities. Marine Rescue New South Wales is full of committed volunteers, many of whom are local heroes. The community commends them for the work they do in keeping our coastal waters safe. It is particularly relevant to recognise the organisation's contribution during National Volunteering Week.

The SPEAKER: Order! I call the member for Murray-Darling to order for the second time.

Mr PAUL McLEAY: Marine Rescue in Port Macquarie, Camden Haven and Harrington has some of the most dedicated and hardworking volunteers in the organisation. The group is led by Peter Taylor from Port

Macquarie, George Tedds from Camden Haven, and Barry Lee from Harrington-Crowdy Head. I am advised by the member for Port Macquarie that his local Marine Rescue group had a particularly active boating season this year. Throughout Port Macquarie, Camden Haven and Harrington almost 200 highly trained members work to save lives on our waterways.

Recently it came to my attention that the new Marine Rescue unit at Harrington is without an operating vessel of any kind. I am pleased to inform the House that New South Wales Maritime has in its possession a vessel that recently became available. It may be perfect for use at Harrington. The vessel is a Naiad rigid hull inflatable boat, which is known as a RIB. It comes with two 115 horsepower Yamaha engines. That style of boat is ideal for the purpose of saving lives. It has inflatable sides, thereby enabling people who are in the water to be dragged safely and easily aboard.

If the volunteers in Marine Rescue at Harrington believe that the boat will be suitable for their needs and given their new operational requirements, I am pleased to announce that the vessel will become available to the Harrington Marine Rescue unit. That will go a long way towards ensuring that volunteers at Harrington Marine Rescue will have the equipment they need to keep their local boaters safe.

BUSHFIRE HAZARD REDUCTION BURNS

Mr FRANK TERENCE: My question is addressed to the Minister for Emergency Services. What is the latest information on hazard reduction burns?

The SPEAKER: Order! I call the member for Coffs Harbour to order for the second time. I call the member for Bathurst to order for the second time.

Mr STEVE WHAN: I thank the member for Maitland for his question and for his strong and active support for his local rural fire services. On one occasion he called me when a local Rural Fire Service unit had been broken into. He acted to immediately secure replacement of much of the equipment that had been stolen, and he did a terrific job. Yesterday's smoke haze over Sydney was due to a very successful hazard reduction burn in the Blue Mountains. It is an indication of a very successful year so far: we have had record numbers of hazard reduction burns in national parks this season. The Rural Fire Service has been working with the National Parks and Wildlife Service, State Forests, the Department of Lands and other landowners to reduce risk. I understand that quite a lot of smoke was around in Penrith yesterday, which caused a deal of comment.

I gather that as the smoke cleared the people of Penrith were seeing something that was rather odd—the State Liberals who were visiting their local area. As recently as a couple of weeks ago, the member for Willoughby said that she had been to the western suburbs; she had been to Strathfield. Apparently the Liberals have found their way a bit farther west. So that the residents of Penrith are not taken too much by surprise, I will give them a little recognition test on the Liberals candidate from information I have taken from his Facebook page. Stuart Ayres is otherwise known as Jake on his Facebook page.

Mr Adrian Piccoli: Point of order: My point of order relates to Standing Order 129.

The SPEAKER: Order! I direct the Minister's attention to the question.

Mr STEVE WHAN: Of course, I am happy to oblige. I am pleased that this time the member for Murrumbidgee jumped at the right moment. One of the most surprising things that occurred yesterday was the number of comments about the smoke. For the benefit of those who cannot work it out, I point out that smoke is an inevitable product of hazard reduction burning. That is why I found it rather bizarre this morning when the shadow Minister suggested that the smoke yesterday was worse because not enough hazard reduction had been carried out. I invite members to follow the logic of the statement, "The smoke was worse because not enough hazard reduction had been carried out." Presumably that means that if hazard reduction burning had been done on another day, the smoke would have been around on a different day, and that is true. But was the smoke worse? I do not think so.

Yet again today the shadow Minister made a comment without any basis in fact. His comment was made simply to get a grab on the radio. That is the result of a complete lack of Opposition policy when it comes to hazard reduction burnings. In contrast, the Government's policy is to direct resources to protect lives and property. Experts have endorsed the Government's approach, but it appears the Opposition's policy is a blanket

burn-the-lot approach. This morning's dopey comment was just the latest such comment from the Opposition. The Opposition's website criticises the Government and suggests that all fire-prone land in New South Wales should be hazard reduced. It says nothing about how, or even if, the Opposition proposes to achieve that.

The Leader of the Opposition needs a policy in relation to hazard reduction burns—just a simple policy. Does the Leader of the Opposition, or does he not, back his shadow Minister's contention that all bushfire-prone land must be burnt? This is an easy question that requires a yes or no answer. The Leader of the Opposition does not want to raise his head to look up and answer the question. New South Wales has approximately 20 million hectares of bushfire-prone land. Does the Leader of the Opposition agree with his shadow Minister that the entire area should be hazard reduced? It would certainly be one interesting policy costing if the Leader of the Opposition has the courage to meet his promise of submitting all his policies for independent costing.

Mr Barry O'Farrell: If you submit your policies, I will submit our policies—absolutely.

Mr STEVE WHAN: The Leader of the Opposition says that absolutely he will submit his policy for independent costing.

Mr Barry O'Farrell: Who did this for you?

Mr STEVE WHAN: The Leader of the Opposition has made an interesting interjection. In his interjection, he is backing down from his commitment to policy costings.

Mr Barry O'Farrell: I said: Who did this for you?

Mr STEVE WHAN: We will wait and see what happens when legislation comes before the House. I have undertaken some very preliminary estimates of the Opposition's policy-on-the-run on hazard reduction. Hazard reduction does not come free. For the Rural Fire Service alone, the Government will spend \$17 million on bushfire mitigation throughout 2009-10, including almost \$2 million to assist elderly and vulnerable residents to reduce bushfire risk on their properties. Land management agencies spend millions more, but all of that would just be a drop in the ocean compared with meeting the Opposition's goal of hazard reduction in all bushfire-prone land in the State. The Opposition would be asking agencies to burn every year more than 12 times the area burnt in the Victorian bushfires last year—an area that is more than half the size of Tasmania. And at what cost! On a conservative estimate, the Opposition's policy would cost not millions but billions, between \$5 and \$10 billion. That amounts to more than the whole Roads budget. Does the Leader of the Opposition back his shadow Minister in the policy that she is promulgating on the website? If he does not, they should change the website and remove the misleading statement that appears there currently.

The fact is that hazard reduction burning is just one of the suite of measures that include burning, mechanical and manual clearing, responding to community, engaging with at-risk communities and improving the standards for assessing developments in bushfire-prone areas. In a recent Australian National University [ANU] report, Dr Don Driscoll from the College of Medicine, Biology and Environment stated:

... burning within 100 metres or so of the urban fringe can have a strong protective effect, but randomly located burns have very little or no protective effect, even when a very high proportion of the landscape is burned annually ...

He went on to say that there seems to be an ingrained belief that we have to fight fire with fire but that is only part of the solution. To make rational decisions about fire management, we need to put all the options on the table, including fire management solutions, engineering and social solutions. The Opposition simply cannot accept that a policy on hazard reduction burning is more than simply making glib comments to the papers, a couple of one lines on radio or misleading comments on an out-of-date website, which has not been updated in months. That is another reflection of the Opposition's policy.

The leadership of the Leader of the Opposition is so bad and woeful that he is allowing shadow Ministers to make any comments they want in the community, with no costing or policy backing. The people of New South Wales need to know that. The Leader of the Opposition's leadership is always under question because he has no capacity to lead. I note the interjections from members opposite. Often I am intrigued to hear what members opposite say in the media when I receive letters from some of them complaining about hazard reduction burns. We will continue to be committed to hazard reduction burns—a sensible policy that protects our communities and their assets, rather than the glib nonsense we get from the Opposition.

The SPEAKER: Order! I call the member for Bega to order.

NEPEAN HOSPITAL NURSE VACANCIES

Mrs JILLIAN SKINNER: My question is directed to the Minister for Health. Given that 30 per cent of patients in the Nepean Hospital emergency department took longer than the eight-hour benchmark to be admitted, and given that Penrith's emergency department failed to meet official targets to treat patients with a potentially life-threatening condition within half an hour, why has the Minister allowed 14 nurse vacancies to go unfilled in Penrith's Nepean Hospital emergency department?

Ms CARMEL TEBBUTT: I thank the member for her question because it gives me the opportunity to place on record some of the Government's interesting achievements with regard to Nepean Hospital. The Government's commitment to the people of western Sydney is well understood; nonetheless it is worthwhile looking at some of the facts and figures because they speak volumes about what we believe in. Since 1995, when Labor came to government, the budget for Nepean Hospital has grown by more than 400 per cent. In 1994-95, when the Coalition was in government, the budget for Nepean Hospital was some \$60 million; now it is almost \$245 million.

But let us not look simply at dollars; let us look also at bed numbers, because the Deputy Leader of the Opposition likes to talk at length about bed numbers. Currently just over 500 beds are available at Nepean Hospital, and we are growing that number with a major redevelopment. That is an increase of about 160 per cent since Labor came to government. Let us look at what is happening with staff, because that is also instructive. Since 1995 total staff numbers at Nepean Hospital have grown by some 69 per cent. Since 2003 nurse numbers have grown by some 29 per cent.

The SPEAKER: Order! Members on both sides of the Chamber will come to order. The Minister has the call.

Ms CARMEL TEBBUTT: The facts speak for themselves: increased funding for Nepean Hospital, more beds, more services for the people of western Sydney, more nurses and more doctors. With regard to the specific issue raised by the Deputy Leader of the Opposition about vacant shifts—

The SPEAKER: Order! There is too much audible conversation in the Chamber.

Ms CARMEL TEBBUTT: The advice I have received, as I indicated to the House yesterday, is that there have been ongoing discussions between the Nurses Association and the management of New South Wales Health, because we believe in industrial rights and we are interested in protecting the industrial conditions of nurses and other public health employees. The reasonable workload tool is included in the award so that we have a process of determining the reasonable workload for nurses across the health system. I am advised that recruitment action to fill vacant positions in western Sydney is continuing. We will continue to meet with the Nurses Association, but the facts speak for themselves. Nepean Hospital is unrecognisable from the facility presided over by the Coalition Government. That is a testament to the Government's commitment to the people of western Sydney.

RED TAPE REDUCTION

Mr TONY STEWART: My question is addressed to the Premier. How is the New South Wales Government reducing red tape?

Ms KRISTINA KENEALLY: I thank the member for Bankstown for an excellent question. We are committed to reducing red tape by \$500 million by June 2011. Our economic recovery is great news for New South Wales businesses and families. We need to capitalise on it and we need to build new platforms for long-term prosperity and business confidence in New South Wales. We have already done the hard yards on planning reform. We have cut red tape and approval times for major investments, and that has underpinned more than \$32 billion in investment and 87,000 jobs in New South Wales. That reform translates into real projects, real jobs and real savings.

We have undertaken the biggest overhaul of the New South Wales public sector in 30 years. All directors general are required to report twice yearly to the Better Regulation Office on achievements in cutting red tape. The reports are required by 30 June and 31 December each year. These reports need to identify their achievements in cutting red tape over the previous six months, including cost savings to business, government and the community, and plans to cut red tape over the next six months, including estimates of expected cost savings of reforms.

Progress in achieving this \$500 million target will be reported publicly and regularly on the Better Regulation Office website, and directors general are informed of this via a memorandum that I issued on 25 January this year. I know that will come as great relief to members opposite because they are concerned that the Government has not been issuing enough memorandums. Clearly, in an O'Farrell government success will be measured by memorandum counts, not by services to families—and that Coalition policy was revealed on 3 May 2010 in an extraordinary press release by the member for Terrigal.

The SPEAKER: Order! Members on both sides of the Chamber will contain themselves.

Ms KRISTINA KENEALLY: The business of government and reforms to the New South Wales public service have, according to the member for Terrigal, "ground to a halt". What does he base that on? "So far, since she took office almost six months ago, Premier Keneally has issued only three memos". The Minister for the State Plan rightly identifies that we missed that in the State Plan. We have no key performance indicator in the State Plan for issuing memorandums, which is clearly the benchmark of good government. The shadow Minister for memorandums is setting up a memorandum watch.

I put up my hand. I have not been putting in the requisite hours at my desk, burning the midnight oil, dictating memos to be typed in triplicate to be put in people's pigeon holes. I put up my hand and say, "Yes, that is the truth of the case". On this side of the House we measure performance by what we deliver to the people of this State. Clearly it is the Opposition's view that as we were introducing MyZone, negotiating millions of dollars for health reform, ensuring that students and parents had access to the National Assessment Program—Literacy and Numeracy [NAPLAN] test, introducing a new child protection system, putting forward \$120 million for solar flagships, ensuring that people with a disability had access to work and community participation, and providing drought relief to farmers in regional and rural parts of the State, we should have been issuing memos.

Mr Adrian Piccoli: Point of order: I refer to Standing Order 174, which relates to overacting. The Premier is clearly in breach of that standing order.

The SPEAKER: Order! There is no point of order.

Ms KRISTINA KENEALLY: We could not find better proof that an O'Farrell government would be a return to the past, the 1960s—more memos, more meetings. Maybe he will bring back tea ladies. On this side of the House we will continue to focus on delivering real practical change for the people of New South Wales. On the Opposition side, less for families, more for memos—that is the O'Farrell vision.

Question time concluded at 3.12 p.m.

PETITIONS

The Clerk announced that the following petitions signed by fewer than 500 persons were lodged for presentation:

Hornsby Ku-ring-gai Hospital

Petition requesting the rebuilding of the Hornsby Ku-ring-gai Hospital, received from **Mrs Judy Hopwood**.

Wagga Wagga Base Hospital

Petition requesting funding for and the commencement of construction of a new Wagga Wagga Base Hospital in this parliamentary term, received from **Mr Daryl Maguire**.

Tumut Renal Dialysis Service

Petition asking that the House support the establishment of a satellite renal dialysis service in Tumut, received from **Mr Daryl Maguire**.

Tumut Hospital and Batlow Multiple Purpose Service

Petition asking that vital equipment be provided immediately to both Tumut Hospital and Batlow Multiple Purpose Service, received from **Mr Daryl Maguire**.

Wagga Wagga Respite Services

Petition requesting funding for a second respite house and the provision of accessible access to the existing respite premises in the Wagga Wagga electorate, received from **Mr Daryl Maguire**.

South Coast Rail Services

Petition opposing any reduction in rail services on the South Coast, received from **Mrs Shelley Hancock**.

South Coast Rail Line Staffing

Petition opposing the reallocation of and reduction in staff on the South Coast Illawarra rail line, received from **Mrs Shelley Hancock**.

Princes Highway Rest Areas

Petition requesting adequate toilet facilities on the corner of the Princes Highway and Sussex Road, received from **Mrs Shelley Hancock**.

Hawkesbury River Railway Station Access

Petition requesting improved access to Hawkesbury River railway station, received from **Mrs Judy Hopwood**.

Bus Service 311

Petition praying that the Government urgently improve bus service 311 to make it more frequent and more reliable, received from **Ms Clover Moore**.

TAFE Employee Negotiations

Petition requesting fair negotiations with TAFE teachers, received from **Mrs Judy Hopwood**.

Religious Education and School Ethics Classes

Petition opposing the proposed ethics classes and requesting continuation of the scripture classes, received from **Mr Wayne Merton**.

Tuckurimba Quarry Expansion

Petition opposing the proposed expansion of sandstone quarry operations at Champions Quarry in Tuckurimba northern New South Wales, received from **Mr Thomas George**.

Adoption Laws

Petition opposing any adoption law changes that take away the right of adopted children to be raised by a mother and a father, received from **Mr Greg Piper**.

Shoalhaven Police Station

Petition requesting funding for the establishment of a new police station in the central Shoalhaven area, received from **Mrs Shelley Hancock**.

Retail Electricity Pricing

Petition opposing the Independent Pricing and Regulatory Tribunal recommendations to increase retail electricity prices from between 44 per cent and 62 per cent, received from **Mrs Shelley Hancock**.

Pet Shops

Petition opposing the sale of animals in pet shops, received from **Ms Clover Moore**.

Mental Health Services

Petition requesting increased funding for mental health services, received from **Ms Clover Moore**.

Burrill Lake

Petition requesting the water level be reduced from 1.25 metres to 0.9 metres to allow the manual opening of Burrill Lake to alleviate community concerns and reduce the negative environment effects of the lake closure, received from **Mrs Shelley Hancock**.

The Clerk announced that the following petitions signed by more than 500 persons were lodged for presentation:

Yurammie State Forest

Petition opposing harvesting operations in part of Yurammie State Forest No. 133 and requesting permanent reservation this area by including it in New South Wales National Park Estate, received from **Ms Clover Moore**.

Coffs-Clarence Local Area Command

Petition requesting increased police numbers in the Coffs-Clarence local area command and provision of a 24-hour-a-day police presence in Yamba without cutting police services to other areas of command, received from **Mr Steve Cansdell**.

Retail Electricity Pricing

Petition objecting to the Independent Pricing and Regulatory Tribunal recommendations to increase retail electricity prices, received from **Mr Richard Torbay**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.13 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Mining Tax] have precedence on Thursday 13 May 2010.

I seek precedence for this motion because the people of New South Wales cannot be confident that the Keneally Labor Government has their best interests at heart in relation to dealing with their Federal mates. This State Labor Government is simply too weak and lacking in strong leadership to stand up to Federal Labor and say, "No, this massive new mining tax is simply a tax on regional economies in this State". It is not listening to concerns about this great big new tax on mining. A recent Herald-Nielsen poll showed that 47 per cent of Australians are opposed to this tax on mining. Clearly families, workers, miners and small business owners in New South Wales are worried about the effect of this tax on a sector that only 12 months ago saved us from the global recession.

This motion deserves precedence because this massive tax on mining will lead to slower economic development in New South Wales where mining companies already face a high regulatory and taxation burden, courtesy of New South Wales Labor. The Liberal-Nationals on this side of the House are deeply concerned but, in stark contrast to Queensland and South Australia, the Keneally Labor Government has displayed no concern, let alone courage, in questioning the serious impact and risk to jobs in regional New South Wales of this looming so-called super profits tax. The relevant question is: Has the Keneally Government even conducted or asked for economic modelling as has the Western Australian Premier, Colin Barnett? Today Mr Barnett indicated that Western Australia stands to miss out on approximately 25 per cent of future oil and gas investments. The New South Wales Labor Government has not even bothered to conduct economic modelling, which is why this motion deserves precedence tomorrow.

Where has the much boasted courage and bluster displayed by the Premier during the Federal health debate gone when it comes to this important issue to regional New South Wales? How can the Premier stay

silent while Federal Labor rips the guts out of the GST and takes royalties from mining that should be spent in regional New South Wales? Why are the so-called regional Labor members—members representing the electorates of Newcastle, Bathurst, Cessnock, Maitland and Monaro—not speaking up about mining jobs in their areas? Thousands of jobs in regional New South Wales are at risk, yet those Labor members of Parliament and, in fact, the entire Labor Government have not expressed one iota of concern. We have not heard a peep out of them.

This motion deserves debate because New South Wales has capital expenditure of more than \$17.2 billion worth of mining projects in the pipeline. The Opposition's concern about this great big new tax on mining is simple: What will be the effect of Kevin Rudd's plans on jobs, families, businesses and the economy of New South Wales? How many jobs will go offshore? Mining companies operate in other jurisdictions, such as South America, Africa, Asia and Russia just to name a few.

Mr Andrew Fraser: Canada.

Mr ANDREW STONER: The member for Coffs Harbour reminds me of Canada. Those companies will simply do their business where the conditions, including taxation, are the most favourable to them. Will communities in regional New South Wales ever see any reinvestment from mining profits come into their region by way of a return of royalties? Absolutely not, as under Mr Rudd's plans those royalties will go straight down to Canberra into the Federal coffers to be dished out by Kevin Rudd. Where will they go? They will go to Queensland and Western Australia rather than to the regions from which the profits originated.

My motion deserves debate. If members of the Government want to interject why do they not support debate on my motion? According to the Australian Bureau of Statistics, direct employment in the mining industry in New South Wales is as follows: 7,045 jobs in Sydney, 908 jobs in Richmond-Tweed and on the mid North Coast, 14,325 jobs in the Hunter and Newcastle, 4,333 jobs in the Illawarra and south-east and 8,122 jobs in the northern, Far West, north-west and central west. That is 34,000 jobs in New South Wales and what does State Labor want to do? Without a peep it wants to rollover to Kevin Rudd. [*Time expired.*]

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.18 p.m.]: Once again the Leader of The Nationals huffs and puffs but has clearly missed the mark. The figures he quoted cannot be correct simply because at this stage the Commonwealth has provided only broad details of the proposed resource super tax profit and further analysis will be required. How can the Leader of The Nationals give those figures with any degree of confidence? As usual he has made them up. That is why he has no credibility and never makes any impact in this House or anywhere else. If the Commonwealth has told this Government it has only provided broad details, and the Commonwealth and the State have undertaken to carry out further analysis, how can the Leader of The Nationals suggest he has done some kind of modelling and arrive at figures for this State that are clearly spurious, incorrect and misleading?

The New South Wales Government will carefully consider the Commonwealth's proposal to ensure that the tax delivers benefits to the people of New South Wales while supporting the continued development of the mining industry in this State. What does that mean in broad terms? It means more jobs, not fewer. The Treasurer has already confirmed that there will be no changes to mining royalties in New South Wales in the upcoming budget, and the New South Wales Treasurer will continue to examine the details of the resource super profits tax and its impact on the mining industry.

The Commonwealth has made it clear that tax reform will be a process that evolves over a number of years. The Commonwealth understands that that is a major reform and it is committed to a genuine and open consultation process, not making up figures behind closed doors, as does the Opposition, to make sure that it gets it right. Clearly, this process will require cooperation between the States and the Commonwealth. We know all about cooperation, unlike Western Australia, which knows nothing about cooperation with the Commonwealth, which will be to the detriment of Western Australia and the people of that State. The Commonwealth is taking this matter seriously.

The SPEAKER: Order! Members will cease interjecting.

Mr JOHN AQUILINA: I have been advised that the Commonwealth Treasurer has made it clear that reform efforts will not see this State worse off. The Commonwealth has announced the establishment of a Resource Tax Consultation Panel in recognition of the importance of the resources sector. The panel will undertake targeted consultation with industry and other stakeholders to identify the design details that would best deliver the Government's policy intent; again, consultation, process and open transparency on those processes.

The objectives of the panel's discussions will be twofold: communicating the design features, including the special features such as the rebating of existing State royalty charges; and liaising with industry to find the best way of achieving the Government's policy outcomes and delivering a system that is both simple and minimises compliance costs. There it is, an undertaking that we will consult with industry to ensure the best possible outcomes. This will include further defining the details of the scheme and ensuring that technical design issues are finalised prior to commencement.

Furthermore, we should not forget that a significant proportion of funds raised will be returned to the resources industry. I return to where I started: that is, the undertaking given that the money out of this resources tax will be available to improve the mining industry, not to make it worse off. By improving the mining industry, we will provide more jobs and better funds. These funds will be returned through the new resource exploration rebate and investments in infrastructure. The Commonwealth's establishment of a new ongoing infrastructure fund will see New South Wales receive a share of these annual contributions. This means a share of \$700 million from 2012 to 2013.

Mr Andrew Stoner: How much?

Mr JOHN AQUILINA: That is the advice I have received: \$700 million. We have heard of figures plucked out of thin air by the Opposition, figures made up behind closed doors. But the Government proposes open consultation with the public, the mining industry and the Commonwealth Government, and an understanding that it will have a share of \$700 million from 2012 to 2013.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 40

Mr Aplin	Mr Hartcher	Mr Roberts
Mr Baird	Mr Hazzard	Mrs Skinner
Mr Baumann	Ms Hodgkinson	Mr Smith
Ms Berejiklian	Mrs Hopwood	Mr Souris
Mr Besseling	Mr Humphries	Mr Stokes
Mr Cansdell	Mr Kerr	Mr Stoner
Mr Constance	Mr Merton	Mr J. H. Turner
Mr Debnam	Ms Moore	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mr Draper	Mr Page	Mr R. C. Williams
Mrs Fardell	Mr Piccoli	
Mr Fraser	Mr Piper	<i>Tellers,</i>
Ms Goward	Mr Provest	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

Noes, 48

Mr Amery	Mr Gibson	Mr Morris
Ms Andrews	Mr Greene	Mr Pearce
Mr Aquilina	Mr Harris	Mrs Perry
Ms Beamer	Ms Hay	Mr Rees
Mr Borger	Mr Hickey	Mr Sartor
Mr Brown	Ms Hornery	Mr Shearan
Ms Burney	Ms Judge	Mr Stewart
Ms Burton	Mr Khoshaba	Ms Tebbutt
Mr Campbell	Mr Koperberg	Mr Terenzini
Mr Collier	Mr Lalich	Mr Tripodi
Mr Coombs	Mr Lynch	Mr West
Mr Corrigan	Mr McBride	Mr Whan
Mr Costa	Dr McDonald	
Ms D'Amore	Ms McKay	
Ms Firth	Mr McLeay	<i>Tellers,</i>
Mr Furolo	Ms McMahan	Mr Ashton
Ms Gadiel	Ms Megarritty	Mr Martin

Pair

Mr O'Farrell

Mr Daley

Question resolved in the negative.**Motion negatived.****BUSINESS OF THE HOUSE****Business Lapsed**

General Business Notices of Motions (General Notices) Nos 783 to 798 lapsed pursuant to Standing Order 105 (3).

TOBACCO COMPANY DONATIONS**Personal Explanation**

Ms GLADYS BEREJIKLIAN, by leave: During question time today the Minister for Climate Change and the Environment stated that I had received personal donations from tobacco companies. As the Minister would well know, members on this side of the House have never received personal donations for campaign purposes, unlike the Labor Party. In fact it is against the Liberal Party constitution to do so.

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY**Health Funding**

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [3.31 p.m.]: My motion should be accorded priority. It states:

That this House congratulates the Premier on securing extra health funding through the COAG process confirmed in the budget last night.

Last night the Federal Government delivered a budget that builds on the historic reforms agreed to at the Council of Australian Governments [COAG] last month. The COAG agreement will deliver better health and hospital services for the citizens of New South Wales. There will be increased funding to meet our immediate challenges as well as structural reform to the way our public health and hospital system is funded. By any measure we have excellent health services in this State. These reforms are about ensuring that this level of excellence is maintained in the face of increasing demand being driven by a range of factors, including ageing, a growing population, and changes in clinical practices and health technology. The Premier went to Canberra to secure reform that would deliver better health care for New South Wales families and improve the financial viability of our health system. And the Premier has delivered. But while the Premier and the Prime Minister were working cooperatively to get a historic agreement on health, where was the Opposition spokesperson for health?

Mr Thomas George: She was doing the work, not getting her photo taken.

Ms LYLEA McMAHON: She was getting her photo taken. The member for North Shore, to my surprise, was getting her photo taken at Shellharbour Hospital with the Liberal candidate for Kiama. I wondered what the Liberal candidate for Kiama was doing at Shellharbour Hospital. Then it dawned on me. Members opposite cannot get their photo taken at Kiama hospital because it would remind the electorate of the Opposition's track record on health. The Opposition closed Kiama hospital. I will mention a few other hospitals where the member for North Shores will not go back to be photographed. I cannot see her being photographed at Port Macquarie hospital. There will be no photo opportunities at Port Macquarie hospital because of the Opposition's appalling track record in Port Macquarie.

Mr Daryl Maguire: Point of order: This time is set aside for the member to establish why her motion should have priority. The member is engaging in debate. I ask you to draw the member back to the rules of debate, establish why her motion should have priority, and not enter into substantive debate.

The DEPUTY-SPEAKER: Order! The speaking time of the member for Shellharbour has expired.

Childcare Funding

Ms PRU GOWARD (Goulburn) [3.36 p.m.]: My motion on child care should be accorded priority because this House has to take a stand for the working families of this State. This House has to put on record its support for working families in New South Wales who are now at the mercy of Federal and State Labor governments struggling to balance budgets. The House must make it clear it does not support the changes to child care announced in last night's Federal budget. The cuts are an attack on the rights of working women. The derisory amount the Federal Government has given to compensate for the cost of childcare reforms will do nothing to staunch the flow of women from the workforce.

More than 170,000 children under five years in New South Wales and their families rely on childcare services, which are now set to cost more thanks to the so-called childhood reforms. Families will have to find more, thanks to the budget decision to cut rebates, and the Federal Government's broken promise on childcare centres is likely to drive fees up further. Where was the outcry from this Government when the Federal Treasurer hacked into childcare rebates last night by reducing the maximum amount of money by nearly \$300 a year with more to come as the indexation freeze kicks in over the next four years? Why has the Minister not spoken up and denounced her Federal Labor colleagues for effectively forcing parents out of the workforce and back to the kitchen? That is why this motion must be given priority.

The Federal Government has not only taken \$300 out of the pockets of hardworking families with young children but also it has done it by stealth by implying it was easing the cost of living. The Government will reduce the annual cap from \$7,778 per child to \$7,500, a reduction of \$278, which families will have to find. Moreover, because indexation has been frozen, the cap will no longer be kept in line with the consumer price index. It gets worse.

The Keneally Government has sat idly by while its colleagues went to work on a childcare system that no-one was complaining about, becoming party to a Council of Australian Governments [COAG] agreement of early childhood reforms that will force up the cost of child care by around \$13 to \$20 per child in this State. Absolutely no-one believes that those reforms, which raise the qualifications required of childcare workers—which is welcome—and reduce the carer ratio from 1:5 to 1:4, which is also welcome, will not require cost increases. The Federal Government claims this will be 57¢ a day, and nobody believes that. No-one who knows anything about running a childcare centre, which is about staff as well as staff ratios, believes that 57¢ a day is believable.

Even this Government recently estimated that the fee increases are more likely to be \$3 a day. Perhaps that is nothing to the Marie Antoinettes on the other side but when you are a nurse or a police officer trying to buy a home in Sydney, that \$3 a day can be critical. We know even this Government believes it is not \$3 a day. According to research the Government commissioned from Booz and Company in 2008 the impact of the change in the staff ratio alone was expected to range from \$5 a day in a small regional commercial centre to \$9 a day in large ones. That was two years ago and even community-based centres were expected to suffer cost increases of up to \$9 a day. So no-one thinks it will be 57¢ a day. Secretly even the New South Wales Government does not think it will be \$3 a day and the industry, which does know its own costs, thinks the fee increases will be anywhere from \$13 to \$22. Let us not forget that in the central business district families are being charged up to \$125 a day.

Ms Linda Burney: Are you worried about quality?

Ms PRU GOWARD: The point about quality is that families must have assistance or they will not be able to afford that quality. That is the crux of the matter. It is not just the 30,000 families in New South Wales who will have their childcare rebates cut; it is the meanness of cutting the start-up grant for new family day care centres, which are already struggling. Let us get to the point, which is the employment of women. All of these changes will discourage women from re-entering the workforce and send many thousands of others home.

Using Commonwealth Treasury modelling, anywhere from 87,000 to 155,000 women in New South Wales will end up going home. Let us have no more weeping or gnashing of teeth by Government members or their Federal counterparts about working families. These changes will play a large part in reducing their numbers in New South Wales, causing enormous difficulty for young families who already do it tough, and causing enormous damage to the productivity and economic strength of the New South Wales economy in the process of losing those extremely valuable workers. That is why my motion must receive priority today.

Question—That the motion of the member for Shellharbour be accorded priority—put.

The House divided.**Ayes, 48**

Mr Amery	Mr Gibson	Mr Morris
Ms Andrews	Mr Greene	Mr Pearce
Mr Aquilina	Mr Harris	Mrs Perry
Ms Beamer	Ms Hay	Mr Rees
Mr Borger	Mr Hickey	Mr Sartor
Mr Brown	Ms Hornery	Mr Shearan
Ms Burney	Ms Judge	Mr Stewart
Ms Burton	Mr Khoshaba	Ms Tebbutt
Mr Campbell	Mr Koperberg	Mr Terenzini
Mr Collier	Mr Lalich	Mr Tripodi
Mr Coombs	Mr Lynch	Mr West
Mr Corrigan	Mr McBride	Mr Whan
Mr Costa	Dr McDonald	
Ms D'Amore	Ms McKay	
Ms Firth	Mr McLeay	<i>Tellers,</i>
Mr Furolo	Ms McMahon	Mr Ashton
Ms Gadiel	Ms Megarrity	Mr Martin

Noes, 41

Mr Aplin	Mr Hartcher	Mr Richardson
Mr Baird	Mr Hazzard	Mr Roberts
Mr Baumann	Ms Hodgkinson	Mrs Skinner
Ms Berejiklian	Mrs Hopwood	Mr Smith
Mr Besseling	Mr Humphries	Mr Souris
Mr Cansdell	Mr Kerr	Mr Stokes
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Ms Moore	Mr J. H. Turner
Mr Dominello	Mr O'Dea	Mr R. W. Turner
Mr Draper	Mr O'Farrell	Mr J. D. Williams
Mrs Fardell	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Piccoli	<i>Tellers,</i>
Ms Goward	Mr Piper	Mr George
Mrs Hancock	Mr Provest	Mr Maguire

Question resolved in the affirmative.**HEALTH FUNDING****Motion Accorded Priority**

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [3.48 p.m.]: I move:

That this House congratulates the Premier for securing extra health funding through the COAG process, confirmed in the Federal budget last night.

As I said earlier, last night the Federal Government delivered a budget that will build on the historic reforms that were agreed to by the Council of Australian Governments [COAG]. The COAG agreement will deliver better health and hospital services for the citizens of New South Wales and provide increased funding to meet our immediate challenges, as well as structural reform to the way in which our public health and hospital systems are funded. By any measure we have excellent health services in this State and this country. These reforms are about ensuring the level of excellence is maintained in the face of increasing demands driven by an ageing and growing population as well as by changes in clinical practices and health technology. When the Premier went to Canberra determined to secure a better deal for health in New South Wales, where was the Opposition spokesperson on health?

Where was the member for Lane Cove? She was at Shellharbour Hospital having a photo opportunity with the Liberal Party candidate for Kiama. Why were they not in the State seat of Kiama? Does the candidate

not know the electoral boundaries? Does he not know that there is a hospital in the seat of Kiama? Perhaps it was because members opposite do not want to be photographed there. They do not want to remind the electorate that the last time the Liberal Party was in government it slashed hospital funding, cut beds and closed hospitals—of which Kiama was but one. What other hospitals does the member for Lane Cove not want to be photographed at?

Mrs Jillian Skinner: Point of order: I would prefer to be called by my correct title. I am the member for North Shore.

The DEPUTY-SPEAKER: Order! I remind the member for Shellharbour to refer to members by their correct titles.

Ms LYLEA McMAHON: Thank you. She is the member for North Shore.

The DEPUTY-SPEAKER: Order! The member for Lismore will come to order.

Ms LYLEA McMAHON: Of course, the member for North Shore does not want to be photographed at Port Macquarie hospital. When the Coalition was last in office it closed Port Macquarie Base Hospital and transferred it to private hands in a deal with Mayne.

Mr Matt Brown: I remember that.

Ms LYLEA McMAHON: The member for Kiama remembers that. New South Wales taxpayers paid \$143 million for a hospital that cost \$50 million, which was then sold to the Mayne Group. Taxpayers were then saddled with an extra \$47 million in annual subsidies to maintain a hospital that they no longer owned.

Mr Matt Brown: Don't let the Liberals near health.

Ms LYLEA McMAHON: Absolutely. The New South Wales Auditor-General was scathing of this transaction, saying the Government paid twice for a hospital and then gave it away. No wonder the member does not want to be photographed outside Port Macquarie hospital. Nor does she want to be photographed outside Wollongong Hospital. The Coalition left a huge hole in the ground at Wollongong where the cancer unit should have been—the cancer unit ultimately built by this Government—without mentioning that it allowed the hospital to run down and become dilapidated. Wollongong Hospital has now been refurbished by this Government. Lidcombe Hospital was also closed by the Coalition. Premier Keneally is delivering for the people of New South Wales: As part of the Council of Australian Governments agreement, \$72.4 million will be allocated to expand the capacity of public hospital emergency departments by undertaking infrastructure projects and enable faster treatment.

Mr Richard Amery: How much?

Ms LYLEA McMAHON: It is \$72 million.

Mr Richard Amery: That is \$72 million and not a pack of cigarettes in sight.

Ms LYLEA McMAHON: That is right. The agreement provides \$160.5 million in facilitation and reward funding to meet national access targets for emergency department waiting times, \$40.3 million to boost elective surgery capacity in public hospitals, \$209 million to facilitate and reward the staged achievement of national access targets for public elective surgery patients, \$527.6 million in capital and recurrent funding to deliver additional subacute beds, and \$56.4 million in flexible capital funding to be spent on emergency department elective surgery and/or subacute areas according to the most pressing needs determined by the New South Wales Government. Our Premier secured this record funding for the State while those opposite had photos taken at Shellharbour Hospital with their Kiama Liberal Party candidate, not knowing the electoral boundaries or that Kiama has a perfectly good hospital and not wanting to remind the electorate of their track record on health and the atrocities they committed in the health system. Do those opposite support this historic cooperative agreement on health between the States and the Federal Labor Government?

Mr Matt Brown: Not according to Gareth Ward.

Ms LYLEA McMAHON: No, not according to Gareth Ward. The Opposition's performance on health is poor. Its track record shows that it failed to look after the needs of the New South Wales health system by

closing down or downgrading hospitals. The member for North Shore has not been photographed at Parramatta hospital because the Coalition downgraded it to a community health facility. Do Opposition members remember that? Lidcombe Hospital was also closed by the Coalition.

Mrs JILLIAN SKINNER (North Shore—Deputy Leader of the Opposition) [3.55 p.m.]: The contribution of the member for Shellharbour was one of the most feeble that I have heard in this place in a very long time. I was proud to be photographed with the Liberal Party candidate for Kiama, Gareth Ward, outside Shellharbour Hospital. If the member for Shellharbour does not know—perhaps the member for Kiama has not advised her—that many patients from Kiama attend Shellharbour Hospital, she is more misinformed than I would have expected.

Ms Lylea McMahon: They also attend Kiama.

Mrs JILLIAN SKINNER: Yes. I will visit that hospital soon. I met with people who spoke about some of the services provided for in the hospital's future plans, in which I am very interested. To set the record straight, while visiting Port Macquarie hospital recently I was photographed with our wonderful candidate, Leslie Williams, who is a nurse at the hospital.

Mr Thomas George: They wouldn't know that.

Mrs JILLIAN SKINNER: Of course they would not know that. They have no idea that I have visited Port Macquarie hospital on many occasions. Nor would they know that I have visited Wollongong Hospital and been photographed outside it, as well as every other hospital in this State. Government members are picking on the wrong person when they suggest that I have not visited hospitals. I shall make a few points specifically about the Commonwealth funding before moving an amendment to the motion. My first concern is that the new arrangements will create extra bureaucratic levels. A new Commonwealth health fund will be established in Canberra and another will be established in New South Wales. According to the agreement, which is very loose on detail, part of the funds will come from the GST and the healthcare special purpose payment that has been provided to all States up to this point in time.

The Government is trying to kid its members that this agreement is a big win. Perhaps they do not understand that it actually results in a loss to the State of \$8 billion from the current health budget—an amount that will go back to the Commonwealth from funds currently provided in the health budget and includes GST at a rate of 30 per cent, which is not mentioned in the Council of Australian Governments [COAG] agreement. The COAG agreement states that the amount will be agreed on. Has the member for Shellharbour read the COAG agreement?

Mr Matt Brown: The standing orders do not permit the member to ask that question.

Mrs JILLIAN SKINNER: I can tell by her response that she has not.

Mr Matt Brown: She said nothing.

Mrs JILLIAN SKINNER: I suspect that the member for Kiama has not read the COAG agreement. Does it mention that 30 per cent of GST money will go back to the Commonwealth? No, it does not. We might be handing back 90 per cent for all we know. The new money for 2010-11 amounts to the cost of operating the health system for fewer than nine days. It is ironic that the Government, the Premier and all her Labor colleagues around the country are quoting what appear to be big figures, but when divided by the number of States and the four years over which the funds will be spread, very little extra money will be available for the New South Wales health budget. In fact, the amount is less than the amount by which the Government blows the budget each year in this State. Members of the Government should not think that suddenly they will be able to fix the problem. The only thing that the Coalition agrees with in the Council of Australian Governments recommendations is that relating to the setting up of local district health boards.

The DEPUTY-SPEAKER: Order! I call the member for Shellharbour to order. I call the member for Kiama to order.

Mrs JILLIAN SKINNER: In March 2009 the Coalition announced a policy of reinstituting district health boards. Thereafter the Coalition has been constantly criticised for that by Government members, but eventually the Government has had to sign up to exactly that policy as part of the Council of Australian

Governments reforms. From the word go, the Leader of the Opposition and I agreed that that was the appropriate policy. There is widespread uncertainty about which hospital costs will be included in the efficient cost. Does the member for Shellharbour know what an efficient cost is?

Ms Lylea McMahon: Actually, I do.

Mrs JILLIAN SKINNER: What is it? What is the amount that has been established as the efficient cost? The efficient cost will be determined by the Commonwealth Government, and nobody knows what it is. For that reason, I will excuse the member for Shellharbour for not responding to my questions. The problem is that a system is being set up but nobody knows the answers to the questions. I move:

That the motion be amended by leaving out all words after "That" with a view to inserting instead:

this House:

- (1) raises concerns about the extra layer of bureaucracy involved in the COAG health reforms;
- (2) notes that over \$8 billion will be handed back from the New South Wales health budget; and
- (3) condemns the New South Wales Government for failing to obtain a fair share of funds from the Federal health infrastructure fund.

During question time today, a question was asked relating to the Federal budget allocations to New South Wales. The Federal budget will provide New South Wales with a measly \$110 million over the next four years. That amount should be contrasted with the more than \$1 billion that it will cost the New South Wales Government, if it actually honours its commitment to construct new hospitals in Dubbo, Tamworth, Wagga Wagga, Bega and on the northern beaches which will serve my constituents. That is a scandal, yet the Government continually congratulates itself on achieving a Federal budget allocation of \$110 million over four years.

Ms Lylea McMahon: Are you going to close hospitals, Jillian? Which hospitals are you going to close?

Mrs JILLIAN SKINNER: The Coalition has made a commitment that there will be no hospital closures—not one. Before the member for Shellharbour repeats lies that have been stated in this place in the past, I remind her of the Coalition's policy.

The DEPUTY-SPEAKER: Order! I call Government members to order. Hansard is having difficulty hearing the member with the call.

Mrs JILLIAN SKINNER: I will refer briefly to a blog that has been submitted by my colleague the very talented shadow Treasurer. At the time of signing the Council of Australian Governments agreement, he pointed out, "It is in the fine print that Kristina Keneally has traded away New South Wales's long-term financial position against a quick truckload of cash. In agreeing to sign away a future portion of GST revenues, she signed away the flexibility that the State needs to provide for future responsibilities." [*Time expired.*]

Mr MATT BROWN (Kiama) [4.02 p.m.]: I am pleased to support the motion. I am disturbed that the Deputy Leader of the Opposition referred to the contribution made by the member for Shellharbour as "feeble". I thought the contribution made by the member for Shellharbour was very substantive whereas the contribution I heard from the Deputy Leader of the Opposition would meet the description of feeble. The Deputy Leader of the Opposition could not even finish her speech on time. During debate on the motion, the Deputy Leader of the Opposition ran out of points to make within five minutes and had to resort to moving an amendment to the motion. She complained about extra levels of bureaucracy when it is Coalition policy to reinstitute hospital boards and additional levels of bureaucracy. Moreover, the Opposition accused the Federal Government of stealing its policies, so we just do not know where the Opposition stands on anything.

One of the most feeble photo opportunities I have ever seen from any member of Parliament or aspiring member of Parliament was the photograph taken of Gareth Ward and the Deputy Leader of the Opposition at the Shellharbour Hospital. On their visit to the hospital they did not make a policy announcement—that would be too much to expect—rather, they asked how proposed health reforms would affect the Kiama region's hospitals. I would have thought blind Freddy could see that additional funds allocated to hospitals will result in a better outcome for patients. Recently the Federal Government and the State Government announced scores of millions of dollars that will be allocated to two of the major hospitals in the Kiama region, Shoalhaven and Wollongong. [*Quorum called for.*]

[The bells having been rung and a quorum having formed, business resumed.]

For the edification of Opposition members, I show them the National Health and Hospital Network Agreement, which clearly states in schedule C11—if my memory serves me correctly from when I last read it—that all the States will be better off as a result of the reforms. Once again the Deputy Leader of the Opposition and member for North Shore, Jillian Skinner, has misled the House and once again she is scaremongering.

Mrs JUDY HOPWOOD (Hornsby) [4.07 p.m.]: I support the amendment moved by the Deputy Leader of the Opposition and state that the original motion is terribly inadequate in many ways. The standard of debate from members on the Government side of the House leaves a great deal to be desired. The speeches that have been made during the debate are among the poorest that I have heard in eight years as a member of the House. Government members have nothing to crow about regarding the quality of their contributions to the debate.

It is important for the House and the community of New South Wales to note that there are serious concerns about the increase in bureaucracy and about New South Wales handing back \$8 billion in GST revenue to the Federal Government. As the Deputy Leader of the Opposition pointed out, the residual Health benefit to New South Wales amounts to nine days of funding for the State's health system, which is totally inadequate. The New South Wales Government has promised repeatedly to construct, at a cost of more than \$1 billion, new hospitals at Tamworth, Dubbo, Wagga Wagga, Bega and on the northern beaches. The health budget will not be met by the \$110 million over four years, which is only 10 per cent of the available Federal health infrastructure funds. It is definitely a blow to communities and a further sign that New South Wales is failing to get its fair share of funding for critical projects.

I mention the contribution of nurses as it is International Nurses Day—indeed, it is International Nurses Week. As I was unable to pay tribute to Michelle Beets yesterday or attend her funeral last week, today I pay great tribute to Michelle Beets and her contribution to nursing and health provision generally. Given it is International Nurses Day, I pay tribute also to Rosemary Bryant, the President of the International Council of Nurses and the Chief Nurse for Australia. This year the theme for International Nurses Day is delivering quality, serving communities and nurses leading chronic care. A wonderful, detailed document has been produced for International Nurses Day. Sadly, I do not believe the State and Federal governments will assist nurses to provide that lead because the funding is totally inadequate.

I remind members that the new money for 2010-11 amounts to what it costs to operate health systems for fewer than nine days. The funding is totally inadequate in terms of what is needed in New South Wales. In the May Federal budget New South Wales was allocated only \$110 million—that is only 10 per cent of available Federal health funding—although the State needs more than \$1 billion to meet the costs of new infrastructure. Hornsby hospital has been mentioned in the news and in this House on many occasions. Members opposite have a hide to say that the Coalition Government was responsible for running down hospitals, especially Hornsby hospital—the ward areas and operating theatres are totally run down—when their Government has allowed hospitals to run down even further. The Government has ignored the problems that we have highlighted.

At the moment the Government is being held to ransom by a group of committed doctors and staff at Hornsby hospital. A committee which was formed has given the Government a master plan, and conversations are underway as to what should be included in stage one of the master plan. It is unacceptable to expect patients to put up with inadequate space in wards and to expect staff to work in rundown operating theatres. If the Government does not include a funding allocation for Hornsby hospital in the forthcoming State budget I can only predict what might happen. *[Time expired.]*

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [4.12 p.m.], in reply: The community is asking the question: What can we expect from the Opposition on the health issue? It is asking that question because people know that Opposition policy is missing in action. The community will judge members opposite by their actions, and their actions speak louder than words. In terms of health, the community look no further than what the Coalition did when it was on the government benches. The former Coalition Government cut hospital funding, slashed bed numbers, closed hospitals and delivered Port Macquarie hospital—something that had to be paid for not once but twice by taxpayers. It was absolutely outrageous.

The community should also look at how members opposite behaved when Howard was in Government. How did they behave? Federal funding went from 50 per cent to 40 per cent. And where was the Opposition spokesperson on Health? Was she standing on her soapbox, arguing with her Federal colleagues to give New

South Wales money for health? She was missing in action. She was absent. She was silent. We have a historic record agreement and a cooperative relationship between the States and the Federal Government to deliver record funding for health in New South Wales. The Premier secured \$6.6 billion in Commonwealth funding for New South Wales. That includes \$722 million more for New South Wales than Prime Minister Kevin Rudd originally offered. That is \$1.7 billion over the next four years, starting on 1 July.

The performance of the Opposition spokesperson on Health has been lacklustre. Rather than deal with the real issues and rather than talk about the Council of Australian Governments agreement and the performance of hospitals—the Sunday papers showed that Shellharbour Hospital is exceeding all benchmarks—we saw in the Saturday paper the fiasco when the shadow Minister for Health took the Liberal candidate for the Kiama electorate to the wrong hospital to be photographed. She took the candidate to a hospital located outside the Kiama electorate. She could not take him to Kiama hospital because that would have drawn attention to the fact that the former Coalition Government closed Kiama hospital. That Coalition Government also closed Lithgow hospital.

Mr Richard Amery: A new one built by us.

Ms LYLEA McMAHON: Lithgow has a very good new hospital built by this Government.

Mrs Jillian Skinner: Tell us about Nepean!

Ms LYLEA McMAHON: What is the position of the Opposition spokesperson on Health? Do we know? Or are members opposite lining up with the Liberals in Western Australia? Once again, judge members opposite by their actions: The former Coalition Government closed hospitals, and members opposite failed to stand up for New South Wales when Howard was in Government. The Liberal Party in Western Australia has not signed up for record health funding for the States. It has denied the people of Western Australia a fair go and an injection of funding. On 6 January, when asked on radio 2GB about the prospects for national health reform, the Opposition spokesperson on Health said, "Oh, look, the Commonwealth was never serious about fixing hospital problems. I think it was a very cheap political buy before the last election."

The Opposition spokesperson on Health is not serious. She took the Liberal candidate in the Kiama electorate to a hospital outside the electorate to be photographed. Of course, the candidate could not visit Kiama hospital in the electorate because it had been closed by the former Coalition Government. Judge them by their actions! The last time the Liberals were in government they closed hospitals. We have seen record investment in Shellharbour hospital, with an increase in the number of doctors from 83 to 95 and an increase in the number of nurses from 153 to 180. [*Time expired.*]

Question—That the words stand—put.

The House divided.

Ayes, 49

Mr Amery	Mr Gibson	Ms Moore
Ms Andrews	Mr Greene	Mr Morris
Mr Aquilina	Mr Harris	Mr Pearce
Ms Beamer	Ms Hay	Mrs Perry
Mr Borger	Mr Hickey	Mr Rees
Mr Brown	Ms Hornery	Mr Sartor
Ms Burney	Ms Judge	Mr Shearan
Ms Burton	Mr Khoshaba	Mr Stewart
Mr Campbell	Mr Koperberg	Ms Tebbutt
Mr Collier	Mr Lalich	Mr Terenzini
Mr Coombs	Mr Lynch	Mr Tripodi
Mr Corrigan	Mr McBride	Mr West
Mr Costa	Dr McDonald	Mr Whan
Ms D'Amore	Ms McKay	
Ms Firth	Mr McLeay	<i>Tellers,</i>
Mr Furolo	Ms McMahan	Mr Ashton
Ms Gadiel	Ms Megarrity	Mr Martin

Noes, 39

Mr Aplin	Mr Hartcher	Mrs Skinner
Mr Baird	Mr Hazzard	Mr Smith
Mr Baumann	Ms Hodgkinson	Mr Souris
Ms Berejiklian	Mrs Hopwood	Mr Stokes
Mr Besseling	Mr Humphries	Mr Stoner
Mr Cansdell	Mr Kerr	Mr J. H. Turner
Mr Constance	Mr Merton	Mr R. W. Turner
Mr Debnam	Mr O'Dea	Mr J. D. Williams
Mr Dominello	Mr Page	Mr R. C. Williams
Mr Draper	Mr Piccoli	
Mrs Fardell	Mr Piper	
Mr Fraser	Mr Provest	<i>Tellers,</i>
Ms Goward	Mr Richardson	Mr George
Mrs Hancock	Mr Roberts	Mr Maguire

Pair

Mr Daley

Mr O'Farrell

Question resolved in the affirmative.**Amendment negatived.****Motion agreed to.**

The SPEAKER: Order! It being almost 4.30 p.m., the House will now proceed to Government business.

CHARTER OF BUDGET HONESTY (ELECTION PROMISES COSTING) AMENDMENT BILL 2010**Bill introduced on motion by Mr John Aquilina, on behalf of Mr David Campbell.****Agreement in Principle****Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [4.26 p.m.]: I move:

That this bill be now agreed to in principle.

The Charter of Budget Honesty (Election Promises Costing) Act 2006 provided an impartial framework for costing election promises in the lead-up to the New South Wales election. This bill enhances that framework by providing for independent oversight by the Auditor General of the costing of election promises made by the Government and Opposition. The secretary of Treasury will be authorised to seek a review by the Auditor General of the cost of a publicly announced or proposed election promise and the aggregate budget impact statement for all publicly announced election promises. The Auditor General will be authorised to conduct such a review. The bill further requires that a Treasury costing of an election promise be undertaken in conjunction with a recognised independent financial consultant. This independent consultant is to be nominated by the Auditor General.

The secrecy provisions of the current Act will be modified to allow disclosure of election costing information to the Auditor General, the independent consultant and their staff. The bill honours the commitment made by the Premier in March to request the Auditor General to cost election promises of both the Government and the Opposition. The bill will ensure that there is a high quality and independent election costing process in place. Treasury has substantial expertise, built over many years, in costing of public sector activities. Treasury's involvement will ensure that the costings are conducted with the utmost rigour. The Auditor General has substantial expertise, built over many years, in reviewing public sector activities. The Auditor General will provide an independent opinion on the methodology, assumptions and reasonableness of the costings prepared by Treasury.

The bill does not propose that castings be undertaken by the Auditor General in the absence of assistance by Treasury. The expertise of the Auditor General does not extend to undertaking castings of election

promises. The Government is also of the view that independent third party costings of election promises overseen by the Auditor General would not be in the public interest. Only Treasury has access to sufficient information and expertise to provide reliable and robust costings. However, the Government proposes that an independent financial consultant, who will be nominated by the Auditor General, work alongside Treasury in the costing process. This will provide further assurance that the costing methodologies employed by Treasury are robust and consistently applied.

All of the key features of the Charter of Budget Honesty (Election Promises Costing) Act 2006 will be retained. At the time of the last half yearly budget review, the secretary of the Treasury is required to publicly identify the amount of money available to meet future spending commitments for the current budget year and the forward estimates—in other words, the financial envelope available to the next government to fund its policies.

The Premier or the Leader of the Opposition can request the Secretary of the Treasury to prepare costings of publicly announced or proposed policies commencing 60 days before an election. A request for a costing can be withdrawn at any time prior to its completion. A party that requested a costing may publicly release the costing at any time. Once the policy is released, Treasury must release the costing and the original request. If the Secretary of the Treasury considers that the costing has been misrepresented in public, the Secretary may issue a public statement to correct any misrepresentation.

The Secretary of the Treasury will provide the Premier and the Leader of the Opposition with a draft budget impact statement 15 days before the election. The budget impact statement includes a summary of the financial impact of each costed policy and the net financial impact of all the costed policies. The Premier and the Leader of the Opposition then have 48 hours to confirm their list of policies. The Secretary of the Treasury will publicly release the budget impact statements five working days before the election. This bill represents a significant enhancement to an already effective election costing process. I commend the bill to the House.

Debate adjourned on motion by Mr Mike Baird and set down as an order of the day for a future day.

STATE EMERGENCY SERVICE AMENDMENT (VOLUNTEER CONSULTATIVE COUNCIL) BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr RAY WILLIAMS (Hawkesbury) [4.31 p.m.]: I note that the object of the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010 is to amend the State Emergency Service Act 1989 to establish a volunteer joint consultative council. The reason for that is to acknowledge the importance of State Emergency Service [SES] volunteers, who are vital to the evolution and development of that service in the future. I am very fortunate to have the Wilberforce State Emergency Service in my backyard, in the electorate of Hawkesbury. They do an outstanding job. Last year the Hawkesbury State Emergency Service crews chalked up an amazing 1,259 hours of service to the community, the equivalent of almost four hours a day.

Statistics from the crew's Wilberforce headquarters reveal that in 2009 Hawkesbury SES teams were called out to 152 tasks, more than a third of which were motor vehicle accidents. Hawkesbury SES is one of the rare services that attend motor vehicle accidents across the State. We are very fortunate to have those volunteers and the service that they provide on behalf of the community. They comprise an amazing team of dedicated and highly trained rescue volunteers. As I said earlier, it is the only unit in the greater metropolitan area that attends road crashes, obviously making it one of the busiest units in New South Wales.

Of the 57 motor vehicle crashes that the Hawkesbury SES attended, crews were required to cut drivers or passengers out of vehicles on 27 occasions. I note that Hawkesbury SES undertakes to put on displays at the Hawkesbury Show every year to demonstrate how effective it is in cutting people out of road crash vehicles. The service demonstrates its skills by working on a smashed-up vehicle, and that attracts great crowds. I witnessed that a few weeks ago. The service also had on display, amongst other things, some of its boats that it uses on the river and its vital equipment needed to provide services in times of emergency.

Kevin Jones is the Hawkesbury State Emergency Service local control officer. He said that the volunteers do their best to get the greatest possible outcome for victims at accidents. Kevin has often said that he

assesses the scene, checking for dangers to the SES officers and others prior to gaining access to persons and extricating them from the vehicles. Obviously they do that in conjunction with the Ambulance Service of New South Wales.

On 29 November 2008 I had the great privilege of attending the Wilberforce State Emergency Service awards ceremony, held at the headquarters at Wilberforce. The ceremony was to recognise members of the Hawkesbury SES for their long service and also their service in the floods on the June 2007 long weekend, which affected many members of the community, especially in the St Albans area and Lower Macdonald, when the Lower Macdonald River flooded. Greg Slater, Deputy Director General, New South Wales State Emergency Service, presented an honorary life membership to Jack DeVries in recognition of his 21 years service to the community through the SES. Jack joined the SES on 3 September 1986 and has been a member of the Hawkesbury SES Road Crash Rescue Team for most of that time. Jack has now retired and is enjoying retirement with his lovely wife. He certainly will be missed by his peers in the SES and the members of the community that he has served for so long.

The State Emergency Service long service medals were presented to Phil Neich, who has dedicated 20 years of service to the SES; Eric Groom, for 25 years service; Ron Van Es for 30 years service; and Kevin Jones, the SES unit controller, who has dedicated an amazing 35 years service. The Newcastle storm medals were presented to Malcolm Brierley, Michael Broome, Tegan Cohen, Jack DeVries, Eric Groom, Janne Hardy, Anthony Hatch, Janine Robinson, Matthew Thornton and Ron Van Es. Most members of the unit have contributed on both the Central Coast and in the Macdonald River area, which flooded in the same storm. During the storm event there was significant damage to homes in the Macdonald Valley area, which required many days of service from the local SES members.

It is worthwhile pointing out that those members and all members of the SES are volunteers. I always like to stress that point, because when we switch on our televisions at night and see that there has been a devastating accident or incident, we see those professional people in their orange overalls as they undertake that amazing job. The perception in the community is that because of their professionalism they are paid; of course, the opposite is true—they are not paid, they are volunteers, as are the wonderful volunteers in the Rural Fire Service, who do an equally good job. I support the State Emergency Service and this amending bill. We should acknowledge those volunteers, they deserve our encouragement, our support and our commendation.

Ms NOREEN HAY (Wollongong—Parliamentary Secretary) [4.37 p.m.]: I support the State Emergency Service (Volunteer Consultative Council) Amendment Bill 2010. The bill will amend the State Emergency Service Act 1989 to establish the SES Joint Consultative Council. As the Minister has outlined, the establishment of the council will provide the State Emergency Service [SES] volunteers with a formal means to help guide the future of their organisation. I know the passion felt by the volunteers of the SES in serving their communities during times of crisis. I assure the House that they are equally passionate about the service itself.

In its early days, the SES, or the State Emergency Services and Civil Defence as it was then known, was comprised almost completely of volunteers, with just a handful of paid staff. Even as recently as a decade ago, region controllers of the service's 17 regions were all volunteers. As well as managing operational responses, they also worked with a commitment to write flood and other emergency plans for their communities and were responsible for training, equipment and accommodation.

This selfless dedication is still much in evidence today, with the service's volunteers giving up significant amounts of their free time to train and taking time off work and leaving family behind to respond when the community needs their help. Remarkably, there are still a handful of volunteers who have been members of the service throughout its full 55-year history. Thousands of others have reached impressive milestones, clocking up decades of continuous and dedicated service.

I have often heard the SES described as the Swiss army knife of the emergency services, such are its members' diverse skills. As well as responding to a variety of emergencies, including floods, storms and tsunamis, SES volunteers are integrally involved in emergency planning, training, equipment, building assessment and design, and the myriad administrative processes needed to keep an organisation of this size running. Given this spread of experience, input and skill, the members are uniquely placed to provide insight into the service and its operation and solutions to problems, helping create greater operational efficiencies, improved training and better community engagement.

The volunteers' desire to play a role in creating a better service was amply demonstrated by the establishment in 1998 of the SES Volunteers Association. From its inception the association has been all about

the volunteers. The State Council meets quarterly in various parts of the State as a forum for members, whose views can be discussed and acted upon or passed on to service management. The association has played an important role in the creation of the joint consultative council, working closely with the Government to ensure that the new body will provide a meaningful channel through which volunteers can be consulted and their views considered as part of the service's decision-making processes.

On behalf of the Wollongong electorate I have been lobbying for more skill development for staff and volunteers. I would also like to see more jobs based in the Wollongong area and I am regularly in the Minister's ear to try to obtain that. I congratulate all the SES volunteers on their work to assist and protect the community during times of disaster. I particularly mention the Wollongong SES because it does such a fantastic job. Its volunteers are fine upstanding members of our community. We would be at a serious disadvantage without their commitment.

I place on record my personal view that they are the best in the State. Members may think I claim Wollongong to have the best in the State on many occasions but that is because I am very proud of the work people do, particularly the SES volunteers. The bill, by establishing the Joint Consultative Council, recognises their efforts and provides them with a clear voice in the management of their organisation. I take this opportunity to thank the Minister for listening to my concerns and for allowing me to lobby him on such a regular basis. I remind him that more staff and jobs in Wollongong would be appreciated if that can be achieved. I commend the bill to the House.

Mr JONATHAN O'DEA (Davidson) [4.43 p.m.]: As an emergency and rescue service dedicated to assisting the community, the New South Wales State Emergency Service is made up almost entirely of volunteers with 226 units located throughout the State. They comprise 10,000 volunteer members who are easily identified by their distinctive orange overalls. The bill aims to provide SES volunteers with greater input into decisions made on their behalf by the commissioner and his paid staff, and is supported by the New South Wales State Emergency Service Volunteer Association. We do not oppose the State Emergency Service Amendment (Volunteer Consultative Council) Bill.

I add my commendations, congratulations and thanks to those of previous speakers for the wonderful work the SES undertakes on behalf of the community. Along with the member for Pittwater I was privileged to attend the launch last Saturday of the Warringah Pittwater Unit SES headquarters, which have been extended. It is a truly magnificent facility for the authority and to the extent that the Government has been part of that we thank them. I also acknowledge the contributions made by the Warringah and Pittwater councils and the local community in reaching that outcome. The function was attended by the Commissioner, Murray Kear, and local controller Wayne Lyne, both of whom spoke very well, as did other dignitaries. It was a well-attended function. The Minister's apologies were noted.

I will make one or two comments about potential concerns with the bill. I note that the member for Lane Cove articulated one of them, which was that in addition to setting up a forum it must be ensured that it is a meaningful forum with true engagement, active listening and resultant action. The member for Lane Cove spoke to that point and indeed the member for Blue Mountains highlighted it in reminding us that we have two ears and one mouth.

A further concern that I would like the Minister to comment on is the composition of the council. Yesterday in debate on the Carers (Recognition) Bill an amendment was accepted that led to a majority of carers being placed on an advisory committee. I see a parallel with that in this bill. While we do not oppose the bill, we seek comment from the Minister on the governance perspective of why there should not be a majority of representatives of volunteers on the council. Having sat on boards myself in the past I find it somewhat unusual that the council, which is charged with advising and reporting to the commissioner, is in fact chaired by the commissioner himself.

That is no reflection on the commissioner, but it warrants comment from a governance perspective as to why the commissioner, who is to be advised by and reported to by the council and is meant to listen to matters relevant to volunteers, not only chairs the committee but sits on it with three members of staff of the SES appointed by the Minister on the commissioner's recommendation and together they make up the majority of four. There are three other members including the President of the New South Wales State Emergency Service Volunteers Association and two persons also appointed by the Minister on the recommendation of the volunteers association. While we do not oppose the bill, and I certainly lend my support to the comments made about the SES, I ask the Minister to comment on that aspect.

Mr GEOFF PROVEST (Tweed) [4.47 p.m.]: I will make a brief contribution to what I believe is a very important bill, the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010. The purpose of the bill is to amend the State Emergency Service Act 1989 to establish the State Emergency Service Volunteer Joint Consultative Council. The council will consist of seven members: the SES Commissioner, who will chair it; three members of staff of the SES appointed by the Minister on the recommendation of the commissioner; the President of the New South Wales State Emergency Service Volunteers Association; and two people appointed by the Minister on the recommendation of the association, one of whom is a volunteer officer who is deputy to a region controller and is a local controller or a unit controller. The council will advise and report to the commissioner on matters relevant to the volunteer members of the SES.

I am very deeply committed to the SES. It is a fine body of men and women, particularly in the Tweed region, where they often put their lives at risk for the good of the community. This is pretty personal to me because my son Patrick Provest, who is 29, was one of a number of SES officers who were injured last May close to midnight when the floodboats they were in were nearly swept out to sea from the Tweed River during a substantial flood. At that time I was pleased to receive a call from Premier Nathan Rees inquiring about my son's wellbeing.

Tracey Provest, my sister-in-law, is the principal of Ulladulla High School and for a number of years has been one of the regional controllers in Ulladulla. I am aware at all times of the work that SES members do. During times of emergency when I attended SES briefings I was impressed with their professionalism and commitment to the community, the long hours that they work and the sacrifices that they and members of their families make. The budget papers state that the number of SES staff will be increased—from 133 in 2005 to 178 this financial year—in line with the general professionalism of other emergency volunteer agencies that has developed over the past decade.

Volunteers have said that they no longer have a voice in the organisation. This bill will attempt to provide volunteers with greater input into decisions that are made on their behalf by the commissioner and by his paid staff. After having been involved with other committees and organisations I express a number of concerns. Before becoming a member of Parliament I was on the Tweed hospital quality consultative committee, which was established to provide feedback to the local community about the provision of health services. After about 18 months that committee was disbanded because committee members were concerned about the limited provision of feedback, even after they had spent a lot of time putting forward suggestions and ideas.

When the Minister replies to debate on this bill I hope he provides us with information relating to the mechanisms that will be implemented by the consultative council so that it has real merit and does not become a toothless tiger. The views of rank and file members and people on the front line should be heard. I am led to believe that before the end of the month the Minister will visit the Tweed. I am happy to entertain the Minister, to show him and his staff around the Tweed, and to welcome him back to the Tweed, which has a longstanding history of volunteers. The Minister has been supportive of volunteers in the provision of equipment and so on—a trend that I hope will continue.

The Liberal-Nationals Coalition does not oppose this bill. Charlie Moir, President of the New South Wales State Emergency Service Volunteers Association, considered a number of amendments to strengthen the role of the council and asked Opposition members to support the bill without amendments. However, I would like the Minister to give us some indication of the power that this council will have to ensure that the voices of our hardworking SES volunteers are heard. These issues must not go into the ether, which is what happened with other government committees. Once again I support SES volunteers, in particular, in the Tweed. I am sure they will continue to give 100 per cent to the Tweed.

Mr THOMAS GEORGE (Lismore) [4.53 p.m.]: I speak in debate on the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010, the object of which is as follows:

... to establish the SES Volunteer Joint Consultative Council (the Consultative Council). The Consultative Council will advise and report to the Commissioner of the State Emergency Service (the Commissioner) on matters relevant to volunteer members of SES units. The Bill also makes provision in relation to the membership and procedure of the Consultative Council.

Every time members in this House are afforded an opportunity they thank and congratulate State Emergency Service [SES] volunteers. Today I pay tribute to SES volunteers in the Lismore electorate. The Richmond-Tweed Emergency Service is headed by Scott Hankel and is supported by Darren Winkler. I am sure

that they join me in thanking every member of staff and all the volunteers for their contribution to efforts in the Northern Rivers area. This consultative council, which is a great win for volunteers, will address the needs and concerns of SES volunteers and highlight all the issues that they raise.

Volunteers provide many services in times of emergency. However, until now, no formal mechanism has been in place at senior SES levels for volunteer input. I am sure that the Minister would be disappointed if I did not say that this is consistent with Liberal-Nationals policy. Earlier this week we debated the Carers (Recognition) Bill 2010, which was supported by both Government and Opposition members. With the passage of that legislation, carers will be appointed to a similar council and will therefore be able to put forward their views. Those who are working in a specific area should be involved in the decision-making process. The member for Davidson said earlier that they will not have control over the final decisions, but they will have a direct input into the decision-making process.

If there is no ongoing commitment by this Government to support that consultative council it will become a toothless tiger, which will have unintended consequences for volunteers. I am sure that volunteers, members of the SES and the Minister will make it work. Last month I was astounded by the SES response statistics for March. In March the SES responded to the following emergencies: 36 flood responses; 541 storm responses; 27 community first responders; four flood rescues; 56 road crash rescues; 37 other rescues; 92 community emergencies; 33 searches; and 200 others—more than 1,000 emergencies in the month of March. Volunteers in 226 units throughout the State responded to these emergencies. I say to volunteers in this State: We recognise them and thank them for their efforts.

I refer to one issue that comes under the Minister's portfolio responsibilities. The Rural Fire Service is located in several regional areas. During times of flood we require the services of the SES but the community is not big enough to support two organisations. Could a better mechanism be put in place to provide similar resources in each community? Two years ago Tyalgum, which is located at the back of Murwillumbah, was flooded out. As it is miles from Murwillumbah, emergency service personnel were not able to get out there. The Rural Fire Service is located in that area but it did not have the necessary equipment to deal with floods. The Rural Fire Service wants to establish a State Emergency Service in that area but there are not enough volunteers to do so. Could any mechanism be put in place for communities such as that?

I am sure many more communities have a Rural Fire Service and/or a State Emergency Service. Some communities might have the reverse situation: a State Emergency Service ready to respond to floods but not able to attend fires. Could there be an opportunity for these services to cross over? I may be shot by some of my colleagues for making that suggestion. I would appreciate if that could be considered for smaller communities, some of which are isolated when a flood occurs close to a major regional city. Communities in my electorate would appreciate any consideration in that regard. This bill is a great win for volunteers and needs the support of this House. Every member who has contributed to this debate supports it. This bill provides volunteers with the opportunity to at least have a say at executive level, which is what the Liberal Party and The Nationals have been saying for some time.

Mr WAYNE MERTON (Baulkham Hills) [5.00 p.m.]: I am pleased to support the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010. As a former Minister for Emergency Services, albeit some time ago in a previous Government, I took great pride and pleasure in dealing with State Emergency Service members. The State Emergency Service is a wonderful organisation that on some occasions performs almost a miraculous service for the people of New South Wales. Emergency services of this nature, such as the State Emergency Service and the Rural Fire Service, are institutions that would be the envy of any country. Cost saving is a relevant factor and we do not refer to emergency services in that sense, but the taxpayer would find it difficult to pay for these services.

Australians are all about being volunteers, looking after their mates and their community in times of crisis. Often it is said that only in times of crisis do Australians come to the front and show their true mettle. State Emergency Service volunteers are on call seven days a week, 24 hours a day; they have an enviable reputation. New South Wales has approximately 226 emergency service units with more than 10,000 volunteers easily identified by their distinctive orange overalls, which has proven to be a practical colour.

Whilst SES volunteers have major responsibilities in flood and storm operations, they also provide the majority of general rescue efforts in rural parts of the State. How often when driving in the country have we been flagged down by State Emergency Service volunteers to avoid an accident site while their colleagues are trying to rescue someone or retrieve someone who has run off the road? They always respond when called on,

particularly in isolated communities. We live in a big, spacious land and have to deal with challenges of climate and distance. The State Emergency Service volunteers are always there to meet those challenges, whether they are caused by nature or are man-made, such as an accident. I suspect the volunteers thrive on beating those challenges, and that is a measure of their commitment.

It is true to say that the State Emergency Service has a great level of professionalism. This Government has recognised that some people in the community believe these volunteers no longer have a say in the organisation to the extent they had in the past. That will inevitably occur in voluntary organisations. This bill seeks to address that by setting up a volunteer consultative council. The principal aim of the new consultative body is to give front-line service volunteers a formal role in helping to guide the service's policies and processes. The new council will provide a formal forum for the volunteers to be consulted and for their views to be incorporated into the decision-making and management as the service continues to develop and expand. This council will give volunteers a voice in policy making. Whilst it could be said that volunteers have no control over that process, this council will provide the opportunity for them to make suggestions and provide input into the activities of the State Emergency Service.

The Coalition supports this type of legislation. It is essential that our hardworking, committed volunteers have a say in the operations to which many of them have dedicated themselves. The organisation should listen because they are at the front line; they will answer the call to respond to a bushfire at midnight or to rescue someone who has had an accident at 3 o'clock in the morning on a cold, rainy day. This service is an important part of the Australian psyche and culture. We must never overlook one important thing: they are volunteers by choice. Strictly speaking, they are not compelled to become involved; they do so by choice. It was said once that there is no person more zealous than a volunteer. The State Emergency Service exemplifies that statement.

The Opposition supports the establishment of this consultative council. Its seven members will comprise: the commissioner, three staff members of the State Emergency Service appointed on the recommendation of the commissioner, the President of the New South Wales State Emergency Service Volunteers Association Incorporated and two persons appointed on the recommendation of the association, with one being a volunteer officer who is a deputy to a region controller or is a local controller or unit controller. This bill is a great start. The Government has a responsibility to foster this relationship and increase volunteer involvement because without them there would be no organisation. Indeed, it is only fair and it makes common sense that the volunteers should have a meaningful say in the way the organisation operates. Without the commitment, loyalty and dedication of volunteers there would be no State Emergency Service. Long may the Government and any subsequent government remember that.

Mr ROB STOKES (Pittwater) [5.08 p.m.]: The State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010 will establish an important consultative council. It is important to note that this bill will give State Emergency Service volunteers the opportunity through an organised council to provide advice to the Commissioner of the State Emergency Service on matters relevant to their role. State Emergency Service volunteers are supported by hardworking, paid professional staff, and low ratio of paid staff to volunteers is a testament to the efficiency of the organisation and the volunteers.

I note, as did my friend and colleague the member for Davidson, the opening on the weekend of the new Warringah Pittwater unit's headquarters. The Commissioner of the State Emergency Service, Murray Kear, made the effort to travel from Wollongong despite the event coinciding with his son's twenty-seventh birthday. It was wonderful that he took the opportunity to share a special occasion with approximately 80 volunteers of the Warringah Pittwater unit of the State Emergency Service. I know that the wonderful volunteers of that unit serve the second-largest population area of any unit in the State Emergency Service of New South Wales. They cover a large metropolitan area that encompasses two national parks and a population of approximately 200,000. That obviously creates an enormous workload for approximately 80 volunteers.

The topographical features of Warringah Pittwater that make the area a very desirable place to live—the bush, the beach and the waterways—also put the area at risk of flood-based emergencies, which is why it is so important to have a very active local State Emergency Service. From memory, the Warringah Pittwater area has seven floodplains. Given the topography of the area, the population tends to be centred on the floodplains so it is very important for the area to have a well-supported State Emergency Service. I commend the unit's controller, Wayne Lyne, for his wonderful advocacy that resulted in the unit obtaining a sizeable grant from the State Government, for which I also thank the Government.

I acknowledge the strong financial and other support of the Warringah and Pittwater councils in relation to the construction of the new headquarters. I thank the capital works planner for Warringah Council, Craig Sawyer, who has contributed a great deal of work to ensure that the State Emergency Service headquarters at Terrey Hills, which is shared by the Rural Fire Service and Marine Rescue New South Wales, is an integrated facility that serves our emergency services well.

Recently the unit controller of the Warringah Pittwater State Emergency Service, Wayne Lyne, was honoured by being the recipient of the Sydney North Volunteer of the Year Award. For 30 years Wayne has been an active volunteer with the State Emergency Service, which is an extraordinarily sustained commitment. He has been an active volunteer for more than half the history of the SES, which also is an amazing achievement. I express the gratitude of the community for the wonderful work that Wayne Lyne has done in leading the volunteers of the Warringah Pittwater unit of the State Emergency Service.

I reiterate the point that has been made by other members who have contributed to the debate, particularly the member for Davidson, relating to the composition of the council. Obviously it is extremely important to have a body that effectively communicates with volunteers in the State Emergency Service. Although the council will be constituted by four professional members and three volunteers, at some stage in the future it may be appropriate for volunteers to be the dominant voice on the council. That would be one way of ensuring that volunteers are not just heard, but really listened to.

Mr JOHN WILLIAMS (Murray-Darling) [5.13 p.m.]: My remarks on the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010 will be brief owing to time constraints. I certainly agree with every aspect of the bill. I acknowledge the importance of having a consultative council in effecting improvements in the professional operation of the State Emergency Service. The State Emergency Service unit in my electorate probably operates a little differently from units in other areas of the State. The situations that emerge in western areas of New South Wales, and to which members of the State Emergency Service respond, are somewhat different from those confronting volunteers in coastal units of the State Emergency Service.

It is extremely important to ensure that volunteers in western State Emergency Service units are given a voice within the organisation. They must have opportunities to make suggestions to ensure that the special conditions applying to remote areas, such as western New South Wales and some parts of the southern Riverina, are taken into consideration in planning and decision-making. In my view, the Volunteer Consultative Council is a step in the right direction. There is no doubt that some magnificent improvements can be made simply by listening to front-line people who provide not only sound advice in the best interests of the organisation but also meaningful suggestions and solutions.

The State Emergency Service is a very important organisation in my electorate. There is no doubt that when major road accidents occur, the local State Emergency Service unit plays a very important role. On many occasions, the presence of State Emergency Service personnel at the scene of accidents has saved lives. The ability of State Emergency Service personnel to deal with disastrous incidents has been the difference between life and death for many people. I congratulate the State Emergency Service on the great work it does and I look forward to improvements that will result from the establishment of the Volunteer Consultative Council.

Mr BRAD HAZZARD (Wakehurst) [5.16 p.m.]: As a former shadow Minister for Emergency Services, I will speak briefly in support of the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010. The State Emergency Service does an incredible job. There are approximately 226 units throughout the State and approximately 10,000 volunteers, which serves to remind us all of the incredible contribution the State Emergency Service makes during many difficult situations. As a former shadow Minister for Emergency Services, I have visited many units and witnessed firsthand the incredible work that is being done.

The situation that is emerging in the State Emergency Service is similar to the situation that exists in the Rural Fire Service: there is an increasing level of upper echelon professionalisation of the service. Consequently, there is a real risk of volunteers perhaps feeling somewhat remote from the decision-making process. While I recognise that in this day and age the right balance must be struck between professional senior management of volunteer emergency services, I also recognise that we are entirely dependent on the goodwill of volunteers and on their continued interest and involvement in the delivery of services that are required to support our community.

I unreservedly support the Opposition's position of not opposing legislation that will establish the Volunteer Consultative Council. However, I am concerned to ensure that the consultative council has a formal

process by which its recommendations are addressed transparently by the commissioner and other members of the hierarchy of the State Emergency Service. I ask the Minister to indicate during his reply the measures he regards as being in place to ensure that recommendations made by the consultative council will be made public, when appropriate, but most importantly how he will ensure that they will be addressed, irrespective of whether they are made public.

It is crucial that some type of key performance indicators apply to the implementation of recommendations made by the Volunteer Consultative Council. If the council is to have any certainty about its role, it must have validation through a transparent and external process. Only in that way will the community and the 10,000 volunteers who are doing the work know with certainty that their consultative council has made recommendations and that the commissioner and senior management within the State Emergency Service have responded.

The Government's role is obvious. The Minister's role is to explain how the process will work. How this will have positive outcomes and feedback for the volunteers is crucial. If the consultative council makes recommendations that simply disappear into the ether and there is no formalised process of response we run the risk that it will do the precise opposite of what members want—that is, an energised, reinforced State Emergency Service that has confidence in the activities of the volunteers and that knows its volunteers are getting the support they need when they are doing the work the community needs.

Mr STEVE WHAN (Monaro—Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs) [5.20 p.m.], in reply: I thank members on both sides of the House for their support of the State Emergency Service Amendment (Volunteer Consultative Council) Bill 2010 and for their positive comments about the wonderful work done by State Emergency Service [SES] units in our electorates. We are all grateful to them for what they do. I thank the members representing the electorates of Lane Cove, Blue Mountains, Hawkesbury, Wollongong, Davidson, Tweed, Lismore, Baulkham Hills, Pittwater, Murray-Darling and Wakehurst for their contributions to the debate. I will respond to some of their questions in my reply. It has always been recognised by members that SES workers and volunteers go above and beyond the call of duty. The volunteers are one of the State's most valued assets. They are held in high esteem and affection by the community as they go about their work, often in the most difficult and challenging conditions, putting their motto, "The worst in nature, the best in us", into practice.

The work ethic, unwavering good spirit and dedication of the volunteers to community service are key to the strength and success of their service. In the time since I was appointed to the Emergency Services portfolio in January last year I have been consistently amazed and impressed by the commitment of SES volunteers. We live in what can sometimes be a fairly cynical world, and in politics perhaps we lose some of our faith in human nature at times. However, SES volunteers reinforce our faith in human nature whenever we see the work they do, because they are willing to give up their days—whether it is Christmas Day, Mother's Day or a special event for their family—to serve other people in the community. The views of SES volunteers are integral to the good management of the service.

As several members said, as the service became more professionally managed—I am not saying that it was ever not professionally managed—and employed more people to assist volunteers, there was always a concern that there would be a distance between volunteers and managers. When the State Emergency Service Volunteers Association representatives visited me to ask the Government to consider establishing a volunteer consultative council, I was happy to agree. Indeed, I worked with the association on the council structure. The structure of the council was openly discussed and agreed to at a meeting with the State Emergency Service Volunteers Association.

The Volunteer Consultative Council will give volunteers a formal seat at the table as the service plans its future, especially in terms of meeting challenges such as the impact of climate change and declining participation in volunteering across a community that is increasingly challenged for time for volunteer activities. The important role of the State Emergency Service Volunteers Association as a peak body for volunteers is recognised in this bill, which gives the association president and two other association nominees seats on the council, together with the service's commissioner and his three nominees. As an aside, this morning I had the pleasure of presenting the first Greg Slater Memorial Scholarships to two SES volunteers. The memorial scholarships were established in memory of Greg Slater, a former assistant commissioner of the SES who made a wonderful contribution to volunteer skill development and who is sadly missed since his death last year.

Two volunteers, Jennine Kingston from Hillston and Philip Snow from Parkes, received scholarships to assist them to develop their skills as volunteers in emergency management and management of SES volunteers.

It is part of the Government's reinvestment of volunteer skills to ensure that we not only get the best possible service from volunteers but also give them the best possible opportunities to achieve their goals. Volunteering for the SES is not only important to the community. It gives people of any age wonderful skills to help them and to carry them through the rest of their lives. That is an important part of volunteering in the SES.

Opposition members raised a number of issues. The member for Lane Cove, who represents the shadow Minister in this place, expressed support for the SES. I join him and other members in thanking the State Emergency Service Volunteers Association and Charlie Moir for ensuring that the council is established. I thank the association for the constructive way it approached this matter. It made a suggestion to the Government and worked with us to get the organisational structure it wanted. The member for Blue Mountains made an important contribution. I appreciated his comments on, and support for, the bill. Indeed, when he was the commissioner of the Rural Fire Service he was responsible for establishing a similar body. Much of what we have done with the SES Volunteer Consultative Council is modelled on the successful Rural Fire Service body in terms of consultation, reporting and action.

In response to comments by members opposite about whether the Volunteer Consultative Council will be effective, the Government has followed the model for the Rural Fire Service Advisory Council, which has proven to be successful. I expect this council to be successful in terms of consultation, feedback and action on items that are decided on by the committee. I will return to that in a moment. The member for Hawkesbury mentioned the motor vehicle rescue role of his local SES unit. Many people do not realise that the SES is the biggest road crash rescue organisation in the State, and it covers the biggest area of the State in the work it does. The member for Wollongong is lucky to have the SES headquarters in her electorate. She is a fantastic proponent of the work of the SES, and has been consistently lobbying for more assistance for SES volunteers. Of course, in representing her electorate, she always wants more staff in Wollongong. That is the job of a local member, and I give her credit for the work she does in that regard.

I had the pleasure of visiting the volunteers at the Wollongong unit with the member for Wollongong. It is a huge, fantastic unit that is very active. It has also been a pleasure to visit many other units throughout the State. The member for Tweed and the member for Lismore also contributed to the debate. I have visited a number of their units in slightly more pressing conditions when they have had floods in the area. That is one of the more inspiring things I have done as the Minister for Emergency Services. The member for Davidson talked about the make-up of the consultative council, and I will come back to that. I thank the member for Tweed and the member for Lismore for their comments. The member for Baulkham Hills, the member for Pittwater, the member for Murray-Darling and the member for Wakehurst expressed support for their local SES units.

The member for Pittwater spoke about the opening of a new SES headquarters in his area. I think the member for Davidson also mentioned that. I acknowledge, as did the member for Davidson, that councils play a huge role in supporting the development of SES facilities, which is important. I put on record my apologies for not attending the opening; unfortunately, it clashed with a few other things. Members opposite asked how we decided the make-up and composition of the council. The Government sat down with State Emergency Service Volunteer Association representatives and asked them what they wanted; that is how the actual make-up came about.

The staff members on the council will be responsible for volunteer relations, matters such as human resources and management issues. They will be able to have free and frank discussions with the association representatives on the council to address such issues. I emphasise that setting up this council will in no way prevent or discourage members of the State Emergency Service Volunteers Association from approaching the Minister with their concerns. My door, and I am sure the doors of successive emergency services Ministers, will remain open for direct approaches from the association.

The reporting arrangements with the commission will be similar to that of the Rural Fire Service Advisory Council. Minutes will be produced with action items and forwarded to the Minister. Very importantly, the State Emergency Service Volunteers Association will also develop its own representative model within the organisation to ensure that the views of volunteer members of the council are reflective of the grassroots volunteer views. They will have their own structure to report back to their members and to feed in other issues. I commend the bill to the House and thank all members for their support.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

BUSINESS OF THE HOUSE**Suspension of Standing Orders: Routine of Business**

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [5.31 p.m.]: I move:

That standing orders be suspended at this sitting to permit:

- (1) The following routine of business for the remainder of the sitting:
 - (a) the continuation of Government business;
 - (b) consideration of the matter of public importance at the conclusion of Government business; and
 - (c) private members' statements at the conclusion of the matter of public importance.
- (2) The House to adjourn without motion moved at the conclusion of private members' statements.

Mr DARYL MAGUIRE (Wagga Wagga) [5.33 p.m.]: The Opposition appreciates advice from the Leader of the House that Government business will continue. The Opposition is delighted that there is business before the House as on too many occasions the House has adjourned early. The Liberal-Nationals are delighted to debate a number of bills on today's business paper, for example, the Carer's (Recognition) Bill 2010, the Companion Animals Amendment (Outdoor Dining Areas) Bill 2010 and the charter of budget honesty bills, which mirror business listed by the Opposition for Thursday and Friday. The Leader of the House has given the Opposition an assurance that private members' statements—which are an important way for members on this side of the House to raise issues of concern—will proceed at a later hour.

Ms Angela D'Amore: And on this side of the House.

Mr DARYL MAGUIRE: Indeed, they are important to Government members too. It is an important process of the Parliament, and the Opposition appreciates that assurance from the Leader of the House. Opposition members are always pleased to take part in debates and it is good to know that finally there is some legislation before this House—legislation that mirrors, or dare I say has been stolen from, Liberal-Nationals policy. This legislation will change the way in which people's lives are governed—some would say too much—and the Opposition will take part in the debate.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DEVELOPMENT CONSENTS) BILL 2010**Agreement in Principle**

Debate resumed from 22 April 2010.

Mr BRAD HAZZARD (Wakehurst) [5.36 p.m.]: I lead for the Opposition in debate on the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010. In recent years under this Labor Government the Parliament has dealt with a number of amendments to the planning legislation. Despite that fact, New South Wales still lags behind every other State in the country in relation to our economic indicators and getting on with development and providing the housing that we need to meet the expected population increase in New South Wales. This Labor Government has shown a complete inability to manage the planning system in New South Wales and to balance the interests of the community in terms of development approvals and ensuring that housing facilities are adequate to meet the expected population increase.

It is a sad history, going back to 1997 when major amendments were made to the planning provisions that the then Minister for Planning indicated would drastically reduce the number of development applications that were awaiting consideration. In fact, in 1997 there were approximately 60,000 development applications

and, as a result of Labor's amendments to the planning provisions, by the following year the number had doubled to 120,000. Rather than streamlining the process, the Government increased its complexity and thereby doubled the number of outstanding development applications. Amendments to part 3A were passed in 2005 and caused great angst across the community. The process is often conducted by the Government behind closed doors. We have seen reinforced many times the message that if a person donates substantial amounts of money to the Australian Labor Party he or she is more likely to have their development application called in to the Minister.

Ms Angela D'Amore: Rubbish!

Mr BRAD HAZZARD: The member for Drummoyne says it is rubbish but she knows that it is true. Part 3A has caused much angst and concern in the community, and the Coalition shares that concern. The Coalition remains committed to removing part 3A from the Act when in government. The voice of the community has to be heard on development. We will ensure that its voice is heard but there is a balancing act, which unfortunately is not happening at the moment. I refer to reports that have been released in the past few months to provide some background to the changes to the legislation. In January 2010 the Property Council of Australia and the Residential Development Council gave New South Wales a 5.2 out of 10 rating for the handling of development applications.

In 1997 Craig Knowles told us that he would introduce processes to improve the handling of development applications. The recent reminder from the Property Council in January this year makes it very clear that, even after the amendments in 1997, the 2005 introduction of part 3A, and major amendments to the planning legislation in 2008, it is still giving the State a 5.2 out of 10 rating for the handling of development applications. Also in January 2010 a Demographia International Housing Affordability survey revealed that Sydney was "one of the least affordable markets" in the world. Prospective purchasers lining up in Sydney and in New South Wales know that buying a home here is a pretty tough ask.

Mr Rob Stokes: Now there is another new tax on it.

Mr BRAD HAZZARD: As the member for Pittwater said today, the Premier of New South Wales, who served briefly as planning Minister—and caused her own little piece of chaos in planning—has now added an ad valorem charge to homes costing more than \$500,000 for registration charges. The charges will go from a flat fee to a great big new sliding scale tax, which will be whacked onto the purchase of homes in New South Wales. I well remember the last major debacle in terms of tax increases by this Government that affected the property market—that is, the vendor exit tax introduced by then Treasurer Egan that saw the market dive in New South Wales. Today's announcement by the Premier shows a continued lack of understanding about the levers that affect the property industry and market.

I turn now to February 2010, one month later, when the New South Wales Property Council's *Residential Development* magazine stated that the largest infrastructure charges per housing lot were in Sydney, where they are "facing costs of around \$55,000 per house lot". In February 2010 the National Housing Supply Council's *State of Supply* report stated that if there were no major changes to planning laws by 2028, up to 126,000 New South Wales families would not have a place to call home. Three months ago the Government was told, yet again, that it has a major supply problem for houses in New South Wales, which will see up to 126,000 families not have a place to call home by 2028. That is not that far away—only 18 years. The planning system in New South Wales is such a debacle under Labor after 15 years of unsuccessful amendments that families will be unable to afford or obtain a home in New South Wales.

In March 2010 the Urban Development Institute of Australia stated in its *State of the Land* report that Sydney's development levies are by far the highest in the country. The report stated also that Sydney is by far the worst performer of all the major capital cities. Between January and March there have been six reports that highlighted the problems in New South Wales, yet the State Government still cannot see beyond its nose when it comes to recognising that it is part and parcel of the problem.

By April 2010 the National Housing Supply Council's *State of Supply* report also confirmed that currently New South Wales has a shortage of 60,000 homes. In the same month, the Government refused to pay section 94 funds for social housing developments of less than 20 units. Therefore, for 9,000 units at \$20,000 per unit, it effectively took away \$180 million that would have supported infrastructure for New South Wales communities. By May 2010 the Urban Taskforce and BIS Shrapnel had released a report that stated that Melbourne would overtake Sydney as the biggest city in Australia by 2037. The Urban Taskforce stated:

What we need is reform of the planning system and reform of development levies.

Was there a response from the Government to that proposal? No. Also in May 2010 global research organisation, TNS, released a survey stating:

... 80 per cent of people think the NSW Government is managing population growth either not well or poorly.

In 2009 the Australian Bureau of Statistics stated that 22,816 new homes were commenced in New South Wales. That was 2009. Back in 2000 New South Wales produced 45,451 homes. In a decade, Labor achieved a halving in the production of housing stock. In Victoria there has been a growth in the production of housing stock. In 1994 there were 34,168 housing approvals, and by 2009 that had increased to 43,765 housing approvals. Currently New South Wales is way behind the eight ball in what it is doing compared to a decade ago, but it is also doing very poorly when compared to Victoria. Even dwelling units have seen a reduction. In 2007 New South Wales produced 31,322 units, but by 2009 that had dropped to 23,642. That is bad enough, but our southern neighbours in Victoria had produced 43,765 in 2009—approximately double what New South Wales managed to produce.

That tells us that New South Wales has a planning system that, after 15 years of Labor Government, is an absolute disaster. The New South Wales planning system, produced by State Labor and modified by State Labor, has sent developers to Queensland, particularly to south-eastern Queensland, and to Victoria. It is of concern that those people who want to produce housing stock have left the State in droves. They have voted with their feet because under the current State Labor Government they cannot continue to build what they know the population needs.

It is not as if State Labor had not had a go; it had a go all right! It had a go back in 1997, another go in 2005 and another go in 2008, but each time it had a go it added complexity, not simplicity, and it did not engage the community. The community feels alienated on all fronts in the planning system, as does the development industry. There is a lack of clarity around the development approval process—indeed, there is a lack of clarity around the planning process in New South Wales, which I will not address tonight. I look forward to doing that at some other time.

Mr Rob Stokes: Oh, no!

Mr BRAD HAZZARD: The member for Pittwater is disappointed with that. I appreciate that he also would like to have a lengthy discourse and reflection on the problems that have been created by State Labor. However, recognising that members would probably like to get away early after a late night last night, I will restrict my comments to a simple reflection on the problems that we will have to put up with in New South Wales if the Government amends the Environmental Planning and Assessment Act with what it considers to be major changes. However, on each occasion the Government got it wrong. In addition, the Government does not necessarily tell the truth. It probably surprises members on both sides of the House that the State Labor Party would do that.

Mr Rob Stokes: Shocked!

Mr BRAD HAZZARD: Shocked, yes. The Coalition members currently in the Chamber are shocked, but apparently the only Government member sitting on the Government benches, the member for Smithfield, is not shocked. I guess that is because he has been working in the system and has known for a while that they do not regularly tell the truth. In the 2008 amendments, introduced by the then Minister for Planning, Frank Sartor, State Labor promised that the newest amendments would improve the situation. Clearly they have not done that, two years later. Minister Sartor made some big statements. He promised that he would address the issue that concerned the community about developments being approved by the Minister in great numbers after substantial donations had been made to the Labor Party.

In 2008 Minister Sartor introduced provisions establishing a number of bodies that the Coalition had, and still has, concerns about, particularly the Joint Regional Planning Panels and the Planning Assessment Commission. Setting aside the fact that the Coalition expressed its concerns at that time, and continues to have concerns, and is closely watching the implementation of those panels and the various activities of those panels—

Ms Angela D'Amore: Point of order: While I am always interested in hearing from the member for Wakehurst, my understanding is that this bill is about part 4, the lapsing of time frames. I am yet to hear the shadow Minister for Planning make any reference to any content in the bill. I would appreciate it if you drew him back to the content of the bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! Does the shadow Minister wish to be heard on the point of order?

Mr BRAD HAZZARD: Mr Acting-Speaker, I am sure you would understand that there have been many rulings by many Speakers to indicate that a shadow Minister has ample opportunity to consider introductory comments and background material to the introduction of debate on the bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! The shadow Minister has been stretching the point for a while. I remind the shadow Minister that the bill is specific in nature. I will hear further from the shadow Minister.

Mr BRAD HAZZARD: It is important that I set the scene for what has now happened. I was referring to the fact that the Hon. Frank Sartor had given certain undertakings, which I will address specifically in relation to the bill. He indicated he had addressed the issues, but he clearly has failed to do so. One that he failed to address was referred to in a press release on 3 September, in which he said:

The new Planning Assessment Commission, to commence operation on 1 October, will act as the consent authority for about 80 per cent of projects currently determined by the Planning Minister.

That set a benchmark for the honesty, integrity and truthfulness of this Government, which it failed. Since that benchmark was set, Tony Kelly, the latest incarnation of a planning Minister, between December 2009 and April 2010, for example, approved 22 part 3A projects, while the Planning Assessment Commission [PAC] approved only four. So, far from 80 per cent going to the PAC, 85 per cent have been retained by the Minister. The question is: Why has he done that in direct defiance of what was promised to the people of New South Wales?

Ms Angela D'Amore: Point of order: Once again, I ask you to draw the attention of the member for Wakehurst to the bill. He is yet to refer to the amendments that have been proposed. Once again, he is going off on a tangent. We are here to debate the legislation. We would really appreciate hearing his comments on the legislation and the amendments, rather than have him continue to rant and rave.

ACTING-SPEAKER (Mr Frank Terenzini): Order! I remind the shadow Minister of the specific nature of the bill.

Mr BRAD HAZZARD: I remind you, Mr Acting-Speaker, that I have a right to respond to the point of order before you make a ruling.

Ms Angela D'Amore: Are you challenging the Acting-Speaker?

Mr BRAD HAZZARD: I am reminding him that he has to listen to my response to a point of order, which is standard practice in the House. What the Government is seeking to do is amend the 2008 legislation. That is what I am addressing. This provision was introduced in the 2008 bill, which I appreciate that you, Mr Acting-Speaker, may not have been a party to at the time, but it contained a number of amendments. The amendment I am addressing now is one of the amendments that Frank Sartor specifically referred to in that 2008 bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! I remind the shadow Minister of the specific nature of the bill before the House. He has had ample time in which to make his introductory comments. I will listen further to the shadow Minister.

Mr Russell Turner: They just want to go home.

Mr BRAD HAZZARD: That is exactly right. They do just want to go home. Kristina Keneally was also a planning Minister and she approved 93 per cent of part 3A matters.

Ms Angela D'Amore: Point of order: My point of order is relevance. Once again, I draw attention to the fact that the main purpose of the bill is to extend the lapsing period of existing development consents. We have yet to hear from the shadow Minister about any amendments contained in the bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! Does the shadow Minister wish to be heard on that point of order?

Mr BRAD HAZZARD: No, Mr Acting-Speaker. I am sure you are well aware of the issues.

ACTING-SPEAKER (Mr Frank Terenzini): Order! I again remind the shadow Minister of the specific nature of the bill. I ask him to get on with it.

Mr BRAD HAZZARD: I am doing that. But, as I said, it is critical that the House understand there has been a paucity of delivery on previous amendments and promises to this House in regard to planning law. Having said that, clearly there are major problems with housing supply in New South Wales. I have reiterated that there are major issues in terms of what the Government has done with regard to previous amendments to the planning legislation. I have specifically addressed parts of the amendments that were made by the then Minister for Planning, Frank Sartor, in 2008. I noted that the undertakings he gave in relation to the amendments have not been carried out.

Continuing with that theme, the bill before the House is in direct conflict with comments that the then Minister made during the debate in 2008. I draw the attention of the House to the fact that the issues around the development approval period, the consent period, which are the subject of this bill, were the subject of Minister Sartor's comments in the debate in this place. I will quote what the then Minister said and perhaps the Parliamentary Secretary, who has been so exuberantly indicating that it does not have any significance, will now listen and take note. I am sure her constituents would like her to do that. I apologise for the length of the quote I am about to read, but it is from a Labor Minister. In *Hansard* on 15 May 2008 he said:

The Act currently provides that a consent lapses five years after the date the consent was issued unless development has physically commenced. Case law establishes that physical commencement includes such minor works as the placing of survey pegs. The bill allows a regulation to be made setting out what can reasonably be considered to constitute physical commencement. The bill also provides that if development has not substantially commenced a higher threshold within a subsequent two years, it will lapse. This will be supported by a regulation setting out what reasonably can be considered to constitute substantial commencement. The bill also provides that an applicant may seek a one-year extension to the lapsing period of a consent, subject to a deferred commencement condition. This is currently a loophole in the law. These amendments are to ensure that the consent holder must demonstrate a real intention to act on their consent. Under the transitional arrangements, this will only apply to consents that are issued after the relevant provisions have commenced. Existing consents will not be affected.

It seems the Minister had the issue well under control, or so he thought. I discussed the issue with him at the time and the member for Castle Hill also raised the issue in this Chamber. I quote from the comments of the member for Castle Hill on 3 June 2008, which to my recollection was the date that the bill passed through the lower House. He said:

Mr MICHAEL RICHARDSON: ... However, I have considerable concern about a provision that allows for a consent to lapse just two years after the consent was issued unless development has substantially commenced.

Mr Frank Sartor: No, that is after physical commencement. You have misunderstood it.

Mr MICHAEL RICHARDSON: The definition of "substantially commenced" is to be included in a regulation. Preparing a development application can cost tens of thousands of dollars, and a home builder might defer the start of construction because of higher interest rates, for example—something that is beyond his control. So, there is a legitimate reason for not starting, and that could affect the very people the Minister claims to be assisting—mums and dads. The Minister did not spell out why that change is necessary or, indeed, why it is being reduced from five years to two years. Why not three years or four years?

That tells us that at a time when we have the lowest number of housing starts for 57 years, when we have had a series of amendments to the Environmental Planning and Assessment Act under a succession of Ministers, and a major overhaul of that Act in 2008, we had in 2008 a Minister managing the legislation who did not have his head around a major issue relating to the commencement provisions—

Mr Ninos Khoshaba: According to you.

Mr BRAD HAZZARD: No, according to you, because now the Government is introducing amendments that the member for Smithfield probably has not even read, which indicate the Government got it wrong in 2008 and is now having another go. The Government is trying to fix the mess it created in 2008. The Liberal Party and The Nationals acknowledge that it is an issue; it is a problem. We acknowledge that particularly because of the global financial crisis there are problems that were created by State Labor's amendments in 2008.

At the time, Frank Sartor, as Minister, did not listen to the issues that were raised privately and publicly in this place by the Liberal-Nationals Coalition. With developers constrained by the global financial crisis and a

lack of available credit, we are now seeking to amend this last debacle—State Labor's 2008 planning debacle. Today we are being asked to consider giving development approvals of less than five years an automatic five-year approval time for the commencement of construction. The definitions in the bill go back to physical commencements rather than to substantive commencements. Members of the Liberal-Nationals Coalition will not oppose this amendment. In fact, in our minds that is what should have been there previously.

Unfortunately, the failure in 2008 by the State Labor Government to listen to the development industry, to the community generally and to the Opposition resulted in the problems that now have to be addressed by this legislation. There will now be automatic approval for development applications of fewer than five years for commencement of construction, which is what we consider to be reasonable and necessary. However, that was caused as a result of the incompetence of State Labor in the first place. All development applications approved after 22 April 2010—in other words, when the bill that is the subject of today's debate was introduced—will now have an automatic five-year period. However, anything after 1 July 2011 will be subject to regulation, which worries us a bit.

Because of State Labor's track record, the Liberal-Nationals Coalition, the community and the development industry cannot have any confidence that it will get it right. However, we will not oppose this bill because by that stage the good voters of New South Wales may well have made a decision that they have had enough of this Government. On that basis, we will address the issue at that time. This Government, which has been in office for almost 16 years, has totally messed up the planning system. Today we have an opportunity to give industry an extension of time—an industry that provides homes for mums and dads across New South Wales. On that basis the Opposition does not oppose this bill. However, I remind the Government that it created the problem in the first place.

In future it would be much more sensible if the State Labor Government consulted the Opposition, the development industry and the community whenever it intends to introduce any further amendments. I anticipate that very few amendments will be introduced between now and March next year. After that period, if the voters of New South Wales see fit to support the Coalition, it will completely overhaul the Environmental Planning and Assessment Act and ensure that, in regard to the planning and development approval processes, the Environmental Planning and Assessment Act will address the needs of the New South Wales community.

Mr NINOS KHOSHABA (Smithfield) [6.03 p.m.]: I am happy to support the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010, the primary purpose of which is to prevent existing development consents issued under part 4 of the Environmental Planning and Assessment Act from lapsing when they have been subject to a reduction. I cannot emphasise enough the importance and necessity of this planning reform, which is in response to the recent economic slowdown in the development industry. These provisions will be instrumental in helping to ensure an increased level of certainty across the building and construction industry—from large development consortiums carrying out regionally significant development to mums and dads who want to build new homes or carry out extensions to their family homes. All users of the planning system will be assisted by these changes.

The bill will ensure that, if an existing development consent has been granted, subject to a reduction to fewer than the maximum of five years currently allowed under the Act, that reduction will no longer have any effect. This change will ensure that the holders of those consents will have the maximum five-year period to physically commence their development. It is important to remember that the extension of the lapsing period will continue only until 1 July 2011. After that date consent authorities will again be able to reduce their lapsing period for consents to fewer than five years. However, the bill also enables the Minister for Planning, by regulation, to reintroduce a similar measure that will prevent consent authorities from reducing the lapsing period of existing development consents to fewer than five years. This prudent measure will ensure that, in the event of any future economic downturn, the Government will be able to respond without the need to introduce legislation in this place.

Given that the global financial crisis heavily impacted on the building and construction industry, the Government must be applauded for taking such a proactive measure to help to ensure that development and building works can commence again when the time is right. All members heard the earlier contribution of the member for Wakehurst, who spoke for some time. I apologise to all members who had to sit through that waffle. The member for Wakehurst spent a great deal of time talking about planning, but said very little about this bill. He spent most of his time bagging New South Wales, the Government and its planning policies. On a few occasions I asked the shadow Minister what his policy was, but he did not bother to respond. He should stop

criticising the Government and its policies and he should tell us what he stands for. He said that he was not completely happy with this bill, but he does not want to amend it because he has no ideas. I am disappointed because I had to sit through his contribution. I commend the bill to the House.

Mr ROB STOKES (Pittwater) [6.06 p.m.]: I contribute to debate on the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010. In addition to what the shadow Minister—my colleague and friend the member for Wakehurst—said about the community responses to this bill, he urged me to refer to what various stakeholder groups had said. For obvious reasons, and for the reasons articulated by the shadow Minister, they urged us to support the bill as the 2000 amendments made a mess of things. This bill will go some way towards clearing up that mess. To that end I note the comments that we received from the Urban Taskforce and the Property Council, which wondered why it took the Government so long to fix up this problem.

I also note the comments that we received from the Planning Institute of Australia. On behalf of the New South Wales Liberal-Nationals Coalition I thank those important stakeholder groups for their feedback. It is important to ensure that all voices are heard. After listening to the contributions thus far, I was reminded of a comment by Aneurin Bevan, a British Labour statesman, who referred to government efficiency on that island nation and said:

This island is almost made of coal and surrounded by fish. Only an organising genius could produce a shortage of coal and fish in Great Britain at the same time.

That seems to apply equally to New South Wales Labor in relation to this bill. Since Labor was elected to office in this State almost 16 years ago, housing approvals have fallen by half. At the same time, the size of the Act that is used to administer housing approvals doubled. We had a reasonably straightforward Act that comprised three main substantive parts—part 3, part 4 and part 5. We now have part 3, part 3A, part 4, part 4A, part 5, part 5A and part 5B.

Mr Brad Hazzard: The member for Drummoyne does not see that as being a problem.

Mr ROB STOKES: The member for Drummoyne does not understand that more and more red tape presents us with a problem. Frankly, it does. Adding more to a process does not make it better. Even more ironic, over the past 15 years 100 amendments have been made to the Environmental Planning and Assessment Act, but no-one mentioned the fact that those amendments were introduced to reduce red tape. If that were true, surely the first amendment would have worked, thus rendering all the other amendments unnecessary. A large number of ad hoc amendments were made to the Environmental Planning and Assessment Act and the consequent accretion had a lot of unintended consequences, which legislation such as this will go some way towards addressing.

The 2008 amendments to the Environmental Planning and Assessment Act, referred to at length by the member for Wakehurst, relating to the expiration of development consents, were controversial. They were introduced, passed quickly and raised considerable concern in the building and construction industry, not to mention the community. It is no surprise that we are here again seeking to amend the legislation. Ironically, in his agreement in principle speech the Parliamentary Secretary said that the purpose of this bill is to "make the rules around the lapsing of consent easier for the community, industry and councils to administer." However, the fact that once again we are here tonight debating yet another change to the Environmental Planning and Assessment Act shows that the Government is far more set on continuing to amend this already bloated legislation every time it realises that its previous attempts were flawed than it is in coming up with well-researched, well-consulted and beneficial policies.

If those opposite had bothered to listen to the concerns of the building and construction industry when the previous amendments were being prepared—the member for Wakehurst indicated that the member for Castle Hill raised some of those concerns in his contribution to debate on the 2008 bill—they would have realised that the proposed time frames were problematic and we would not be here yet again fixing up flaws. The regulations talk about fixing up what is meant by "physical commencement". Prior to the commencement of the Environmental Planning and Assessment Act and throughout most of its history the meaning of "commencement" or "substantial commencement" was relatively straightforward. Section 315 of the 1919 legislation stated:

Any approval given under this Part, or under any ordinances made thereunder, shall be avoided if the building work to which it refers is not substantially commenced within 12 months after the date of the approval.

A number of cases then deal with the meaning of "substantial commencement". The first judgement in *North Sydney Municipal Council v Middle Harbour Investments Pty Ltd* in 1963 gave a lengthy and clear explanation of what was meant by "substantial". This was followed by the judgement of Justice Cripps in the High Court in *Drummoynne Municipal Council v Lebnan* (1974) 131 CLR 350 at 360. Justice Cripps said:

Clearly the work and development which s 315 of the Act—

the Local Government Act—

and cl 38(2) of the Ordinance require should have been substantially commenced is that to which the approval or consent itself refers, and it would seem to follow that work or development is not commenced when nothing more has been done than acts preparatory to the work or development which is the subject of the approval or consent. It may therefore be assumed, although it is not necessary to decide, that the demolition of the existing houses should not be regarded as commencement of the work in the present case.

In other words, substantial commencement was relatively straightforward. The constant ad hoc legislative amendments have made it more complicated. In his agreement in principle speech the Parliamentary Secretary said that peg-out surveys can now be considered commencement of work under a development consent. He said that needs to change and would be sorted out under the regulations, which, obviously, we do not have the benefit of seeing tonight. The problem was foreseeable with peg-out surveys being considered commencement under the terms of a development consent for the subdivision of land. The 2005 judgement in *Hunter Development Brokerage Pty Ltd v Cessnock City Council* and *Tovedale Pty Ltd v Shoalhaven City Council* found that engineering work in those cases, which included peg-out survey work, was capable of including physical survey work of the nature and extent of that which was the subject of those appeals. The court followed the principles of *Richard v Shoalhaven City Council* in 2002, which concluded:

Whether one describes the relevant work as "merely preparatory" is irrelevant. Once it is determined that the work relied upon falls within the expression "building, engineering or construction work" and has been "physically commenced" upon the land to which the consent applies, the only remaining issue is whether that work was work "relating to" the development the subject of the consent.

Through this bill it can be seen that we had reasonably straightforward law that was easy to understand but which, through constant legislative interference, has been made complex and difficult to understand. Therefore, we are once again trying to make it reasonably easy to understand. This demonstrates yet again why we need an overhaul of planning laws in New South Wales and why constant frenetic activity and changes to legislation do not make it better. That has been the experience over the past 15 years. Another issue with this bill is its impact on councils.

ACTING-SPEAKER (Mr Frank Terenzini): Order! Members will not converse across the Chamber. The member for Pittwater will be heard in silence.

Mr ROB STOKES: The Government has not referred to the impact of this legislation on councils. The poor old councils, which seem to be the whipping boy of this Government, will have another amendment to the Environmental Planning and Assessment Act to decipher and administer. Councils will cop all the flak when building sites sit vacant for five years or perhaps even longer. Building sites may have been vacant for a significant period before the development consent was granted. Once consent is granted the site can sit vacant for another five years and once construction commences building may not be completed or finalised for months or years after that. Councils will be left with this problem and will have to explain to residents or business owners why a nearby or adjacent vacant site may remain an eyesore for up to five years.

Another issue that needs to be raised in the context of this bill is that a proposal that might have been considered appropriate at this point in time may not be considered appropriate in another five years. The character, layout and density of areas are changing constantly, presenting yet another challenge for councils to administer. That issue also needs to be addressed. I do not suggest for one moment that this bill is not necessary to fix the existing problem in the current legislation, but sometimes there are good reasons for development consents to expire within a more limited time period. It is essential that the accompanying regulations are clear, fair and concise to ensure that councils are able to adopt these amendments and apply them to their planning frameworks and procedures. Over the past 15 years 100 separate amendments have been made to the Act, demonstrating the Government's failure to get planning legislation right. It is now incumbent on someone to get the planning system in New South Wales right at last, and for good.

Mr NICK LALICH (Cabramatta) [6.17 p.m.]: I am happy to speak in support of the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010. The primary purpose of the bill is to

prevent existing development consents issued under part 4 of the Environmental Planning and Assessment Act from lapsing where they have been subject to a reduction. The bill also deals with another matter that results from further consultation with stakeholders. The Environmental Planning and Assessment Amendment Act 2008 initially proposed a two-stage approach to determining when a development consent had commenced. The Act currently provides for development to be physically commenced before the consent holder can have the lasting benefit of the consent. Unproclaimed provisions in the amending Act would have introduced a second substantial commencement test that would have to be met within seven years of the granting of development consent to prevent the consent from lapsing.

Consultation with stakeholders has determined that this two-stage approach would be too onerous and complex, resulting in administrative difficulties and therefore is not being pursued. The bill repeals the unproclaimed provisions in the amending Act that would have introduced a requirement for physical commencement. It was always envisaged that a regulation would be made that set out what did or did not constitute physical commencement. This followed a series of court cases that determined that the placement of survey pegs constitutes physical commencement. The Government believes that consent holders must do more than just place survey pegs to have the lasting benefit of a consent. The Government is committed to further consultation with stakeholders before any such regulation is made. The Government must be applauded for ensuring that the appropriate balance is struck between keeping consent alive and making sure that real work is carried out that warrants conferring of the lasting benefit of consent. I commend the bill to the House.

Mr GEOFF PROVEST (Tweed) [6.19 p.m.]: My contribution to debate on the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010 will be brief. The purpose of the bill is to negate in certain circumstances the current five-year period during which development may be carried out under a developmental approval. Currently the Act allows a consent authority to approve a development and allow the approval to continue for five years, provided that physical commencement of construction has occurred up to five years after approval. Current legislation also provides for a shorter period within which development is deemed to have commenced—for example, three years. A lack of funds for development is a factor in the protracted construction phase of projects. Many times references have been made to the global financial crisis and developers encountering difficulties when they attempt to raise finance.

The bill ensures that any development consents that were given prior to the introduction of the bill on 22 April 2010, for which development application approvals have applied for a period of fewer than five years, will automatically be given five years from the date of the first approval in which to complete the project. All other development applications approved after that date and before 1 July 2011 cannot be reduced to periods of fewer than five years. I am eager to address issues that specifically concern my electorate in the context of the bill. I impress on Government members, and perhaps some members of the Opposition, the uniqueness of the Tweed and issues that have arisen in my electorate.

During recent discussions, the General Manager of the Tweed Shire Council, Mike Rayner, indicated that there are literally hundreds of project development applications that have some form of physical or substantive commencement, but they have been stymied. A number of years ago a project in Wooyong, which is at the southern end of the Tweed electorate, was the subject of a development application. An argument was presented in the Land and Environment Court relating to a fairly substantial portion of land. The development application was deemed to have physically commenced. An aspect of the case that my constituents and I find really hard to stomach was that the then surveyor for the project claimed he had put a number of pegs on the site. Evidence given in the Land and Environment Court indicated that the surveyor could not provide any written documentation, billing accounts or maps to substantiate that claim—no paperwork at all.

Nevertheless, the Land and Environment Court ruled in favour of the developer. The project had been deemed by the court to have physically commenced. In practical terms, the decision meant that the development had been approved 15 years earlier, based on physical commencement of the development being effected by the surveyor putting pegs on the site. The survey indicated that he could vaguely remember going to the site and putting the pegs on the site, but there was no physical evidence of pegs found on the block of land. In spite of that, the court ruled in favour of the developer. The problem arose because approval had been given under different environmental laws. The project later became the subject of a part 3A application and subsequently various components were overturned. However, there are literally hundreds of similar cases involving projects for which development approval has been given. Many of the developers involved have been land banking.

There is no clear indication of what constitutes physical commencement and substantial commencement. Research I have undertaken into a number of decisions made by the Land and Environment

Court shows that the basis for determinations is quite vague. It seems to depend on which way the wind is blowing and what people say has been a substantial or physical commencement of the project. The ambiguity is causing a great deal of confusion. Queensland does not suffer from similar confusion. Members often hear me compare measures adopted by the Queensland Government to what happens in New South Wales. In a recent ranking of approvals of development applications, unfortunately the Tweed was ranked fourth worst in the whole State. According to the Urban Development Institute of Australia, similar developments in Queensland are approved in 180 days, but in the Tweed the decision takes 500 days.

Local councils have been saying that developers do not provide sufficient information, and vice versa, but I think New South Wales laws should be amended. I endorse comments made by the member for Pittwater: When changes are constantly being made ad hoc, the legislation becomes increasingly confusing, particularly for developers. However, I am more concerned about the people of the Tweed who have moved to the electorate and expect a certain amount of transparency in government processes. They continually face very onerous development application implications in terms of what is physical commencement of a project and what is substantial commencement. I find it difficult to explain to them why the Land and Environment Court ruled on the basis of evidence given by a surveyor who had no supporting paperwork but whose testimony was that he had put a number of pegs on the site. There was no proof that the surveyor had put pegs on the site, yet the Land and Environment Court found in favour of the developer and deemed that development had commenced.

After the Land and Environment Court made the ruling, the property was immediately submitted for expressions of interest in major Sydney newspapers. The developer was virtually speculating in land acquisition and trading on loopholes in the legislation. I believe that the legislation does not go far enough to close the loopholes. Basically, to the detriment of the local community, the legislation enables people to engage in property speculation. The community needs clearly defined legislation that will serve future public interest. Prior to March 2007, local Tweed residents challenged a number of development applications in the Land and Environment Court. I attended the hearing one particular day.

Ms Angela D'Amore: Point of order: I think we have all been very patient with the member. My point of order is based on relevance. Some of this information may be better presented in a private member's statement. It does not relate to the content of the bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! I draw the member for Tweed back to the leave of the bill.

Mr GEOFF PROVEST: Absolutely, but my comments relate to the development application process and to the operation of the Act. I contend that my comments are relevant. If the member for Drummoyne does not consider the rights of local people to be relevant, that is regrettable, but that proposition does not gel with my beliefs. I was elected to stand up for the people of the Tweed electorate. I am 100 per cent in support of the Tweed. I will continue to draw attention to the inefficiencies of ad hoc legislation in this House. I am sorry if that is offensive, but I reiterate that I am 100 per cent for the Tweed.

Mr GREG PIPER (Lake Macquarie) [6.26 p.m.]: In joining in debate on the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010, I will not examine all of the matters that the bill is intended to address. Members who preceded me in the debate have dealt very well with those matters. Suffice it to say that the bill seeks to address certain concerns on the part of investors or developers in relation to limitations of the Environmental Planning and Assessment Act 1979, such as the requirement for a development to be substantially commenced within five years.

It is the case that a minimum commencement period currently is two years and that councils in New South Wales commonly apply that period. There are very good reasons for that. The first is the desire to see development occur in a timely manner, in accordance with community expectations. The second is the desire to reduce the likelihood of speculation on development consents when a consent holder regards the consent as a saleable commodity, rather than a definite commitment by them to develop the project. The third is that it allows for requirements to keep up with changing expectations in relation to matters that include, importantly, environmental protection. I contend that councils generally have applied the limitations appropriately. I am particularly aware of that within the City of Lake Macquarie where developers can, and do, invariably receive extensions for development commencement on application.

Councils have been frequently demonised by the development industry and by the State Government over an alleged inability to process development applications in a timely and appropriate manner, yet I contend

that most people would agree that overall we live in an wonderful community that provides opportunity and a high quality of life for the vast majority of residents in New South Wales. The majority of planning and development that led to the situation sought to be addressed by the bill occurred under the auspices of local government authorities—councils that know their communities intimately.

This bill continues the unfortunate practice of adding to and amending planning legislation in an ad hoc manner instead of addressing the fundamental need to review and rewrite the current planning and associated legislation, including State environmental planning policies and regulations. We currently have a highly complex system that adds undue complexity to the assessment of development applications, and enables responsibility for the delays to be unfairly attributed to councils. This bill will not in itself cause the sky to fall. It is not the worst of the issues of concern, and for that reason I will not oppose the bill. However, I call on the Government to address the real issues by fundamentally reviewing the planning legislation. I also call on the Government to reverse the trend of removing councils, and hence the local community, from planing decisions about their local area.

Recent comments by the Premier indicate that she will seek to further "streamline" planning in New South Wales by the possible further application of short cuts provided under recent Nation Building projects to the private sector. Her comments have been followed up with obscene gusto by the New South Wales Chairman of the Nation Building and Jobs Plan Taskforce, Bob Leece, who has added to the concern felt by local communities. I contend that we can do things better, but that will require the State working more closely with councils and local communities. I might add that it will require an acknowledgement by and commitment from local government to work with the State. At this point though, the ball is in the Government's court.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [6.29 p.m.], in reply: I thank the member for Wakehurst, the member for Smithfield, the member for Pittwater, the member for Cabramatta, the member for Tweed and the member for Lake Macquarie for their contributions to the debate. I will address some of the concerns highlighted in the debate by the member for Wakehurst, although it took him some time to get to the content of the bill and the amendments. Primarily, the Opposition spokesman stated strongly that the Labor Government had not consulted with industry and that developers were being constrained by the Government. That is strange because in the same breath he said that developers did not agree with part 3A, which we know has made major inroads in the development system in New South Wales. Part 3A has enabled larger-scale housing developments to get through the process and provide that essential housing to the people of New South Wales. Opposition members have consistently opposed affordable housing developments in their electorates.

Mr Brad Hazzard: Point of order: It is outside the ambit of the bill, but perpetuating a lie will not give it any more substance. The Minister knows that it is an absolute lie. She should stick to the truth.

ACTING-SPEAKER (Mr Frank Terenzini): Order! There is no point of order. The Parliamentary Secretary has the call.

Ms ANGELA D'AMORE: I was purely addressing some of the issues that the member for Wakehurst had put on the record. It was only two weeks ago that we heard the Leader of the Opposition and the member for Epping oppose housing developments in their electorates, which would provide much-needed housing to constituents who would move into the area.

Mr Brad Hazzard: Point of order: The member is referring to a debate from two weeks ago. She is speaking in reply. The terms of the debate require the member to respond to what was put in the debate. I know what I and two other Liberal Party members said. No-one asserted that we do not support social housing—we do! Time and time again we have heard Labor members try to lie about that. The member for Drummoyne should not lie now.

ACTING-SPEAKER (Mr Frank Terenzini): Order! I will hear further from the Parliamentary Secretary. I remind the member for Wakehurst that I allowed him to make a wide-ranging contribution to the debate. I will allow the Parliamentary Secretary to proceed. I welcome to the public gallery the Liberal members of the Vacluse conference, who are guests of the member for Vacluse.

Ms ANGELA D'AMORE: The member for Wakehurst should learn some manners and not grandstand for people in the gallery. I note the Opposition's position in relation to housing. In one breath members opposite say that not enough housing is being built in New South Wales; in another breath they say

they oppose part 3A and they do not agree with a number of projects within their electorates. Rather than proving the points to their electorates, they contribute to other debates and oppose those developments. I note that the member for Wakehurst refused to acknowledge that last year \$18.5 billion worth of housing was approved in New South Wales to provide essential housing to residents. I note also that councils have strict targets about providing additional housing and job growth in their local government areas. The State Government has put in place a number of mechanisms to facilitate that housing and job growth.

I noted the comments by the member for Pittwater, who said that while he does not oppose the amendments in the bill he felt that the five-year time frame is too long because we could end up with eyesores. Let me put it on the record that every mum and dad builder and developer I speak to throughout New South Wales intends to get their homes or developments built as quickly as possible. No-one intends to have eyesores or empty blocks of land in our electorates. However, due to the financial crisis and some of the circumstances we have seen over the past year, we are dealing with a different set of circumstances, hence these amendments. I ask the member for Pittwater to look at the contradictions he put forward while debating this bill.

Mr Rob Stokes: Point of order: My point of order relates to relevance. We are talking about a bill that extends the operation of a consent, so eyesores are pertinent to the point of this bill.

ACTING-SPEAKER (Mr Frank Terenzini): Order! There is no point of order.

Ms ANGELA D'AMORE: Currently development consents tend to be granted with a lapsing period of two years rather than the maximum five years allowed by the Act. This means that if a development consent is not physically commenced within two years it will lapse. The introduction of the bill will extend that figure to five years as allowed by the Act. In normal market conditions the two-year time frame is sufficient to allow developers to physically commence a development. However, in recent times, and particularly during the global financial crisis, the two-year period has not been long enough to obtain finance and commence works. The New South Wales planning system is a significant contributor to the prosperity of this State, and it is important to help ensure that as the State's economy continues to lead the nation in its recovery from these difficult financial times existing development consents are available to be taken up as finance flows back to our building and construction industries.

Indeed, this is important for everyone who contributes to construction industry activity, from the large-scale development works conducted by developers to the mums and dads who may have had to postpone home improvements due to a change in financial circumstances. This bill will help to do this by ensuring that where consents have been granted with a lapsing period of fewer than five years the bill will extend the lapsing period to the current maximum of five years. The bill will also ensure that from its commencement until 1 July 2011 any consents granted by a consent authority will be subject to the maximum five-year lapsing period. The Government believes that the additional time frame to conduct development is appropriate, given the continuing signs of economic recovery and extensive infrastructure development within New South Wales. To maintain the integrity of the existing New South Wales planning framework, the bill will not apply retrospectively to development consents that were subject to a reduction in the time period but lapsed before the bill was introduced.

The bill also provides for the possibility of future economic downturns. It contains provisions that will enable the Minister for Planning, by regulation, to prevent consent authorities from reducing the lapsing period to fewer than five years if economic times turn tough again. Another purpose of the bill is to make the rules around the lapsing of consents easier for the community, industry and councils to administer. The existing test for the lapsing of consent is whether a development has physically commenced. Unproclaimed provisions in the Environmental Planning and Assessment Amendment Act 2008 would have introduced a two-stage test that requires physical commencement of the development the subject of the consent within five years to demonstrate that the developer was sufficiently committed to undertaking the development to prevent the consent from lapsing but then further work to an additional standard to demonstrate substantial commencement within seven years to ensure that the consent did not lapse.

Consultation has indicated that the two-stage test proposed by the amending Act would be overly complex and would be difficult for all parties to administer in practice. The bill therefore proposes to remove the second part of the two-stage test while retaining the ability to establish in the regulations what does or does not constitute physical commencement. These changes will simplify the lapsing provisions and provide additional certainty for the development industry. These changes and the regulations that will be made after the amendments to the Act commence are consistent with the broad thrust of the primary purpose of this bill. I commend this bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

CARERS (RECOGNITION) BILL 2010

Message received from the Legislative Council returning the bill without amendment.

COURT INFORMATION BILL 2010

Agreement in Principle

Debate resumed from 19 March 2010.

Mr GREG SMITH (Epping) [6.40 p.m.]: I lead for the New South Wales Liberals and The Nationals in debate on the Court Information Bill 2010. The Liberal Party and The Nationals do not oppose the bill. The stated object of the Court Information bill 2010 is:

... to establish a new system for the provision of access to information held by courts in New South Wales. The new system includes provision for the following:

- (a) open access to certain court information, known as *open access information*, unless the court otherwise orders in a particular case,
- (b) access to information, known as *restricted access information* (being information that is not open access information) if access is permitted by leave of the court or by the regulations,
- (c) access by news media organisations to certain restricted access information,
- (d) access by parties to proceedings to any court information relating to the proceedings,
- (e) the imposition of conditions on access to court information relating to the way the information is provided or that restrict the disclosure or use of the information,
- (f) the protection of privacy and safety of participants in court proceedings, including by limiting access to personal identification information,
- (g) the protection of court information from misuse and unauthorised access, use or disclosure,
- (h) methods of access to court information, including charging of fees for access.

In his agreement in principle speech the member for Miranda, the Parliamentary Secretary, said that this bill apparently has its origins in the New South Wales Law Reform Commission Review of "Law of Contempt by Publication" as long ago as 2003. A year later, in 2004, the Supreme Court conducted community consultation and two years later, in 2006, the Attorney General's Department released a discussion paper. Then in 2009 the Attorney General released a consultation draft of this bill, and in 2010 we finally see the bill in this House. Despite the fact that all those years have passed, the Parliamentary Secretary has advised the House that it apparently "has not always been possible to accommodate the concerns and views of every stakeholder".

Turning to the bill in more detail, clause 3 sets out the objects of the proposed Act. Clause 4 is a definition section. "Personal identification" information is defined to include "information such as a person's tax file number, passport number, social security number, Medicare number and personal telephone number". Clause 5 relates to open access information in both criminal and civil proceedings. Open access information includes the following:

- (a) in relation to criminal proceedings—indictments, court attendance notices, police fact sheets and statements of fact,
- (b) in relation to civil proceedings—originating processes and pleadings

but only after the court has had an opportunity to consider them—

- (c) written submissions made by a party in proceedings,
- (d) a transcript of proceedings,
- (e) statements and affidavits admitted into evidence, including expert reports,
- (f) records of judgments and directions given in proceedings.

An amendment proposed by the Government has amended subsection (2) to include the wording:

... any objection by the parties to the inclusion of any information in the originating process or pleadings (including in any cross-claim) or the proceedings have concluded, whichever happens first.

The purpose of this amendment is to clarify what is meant by the phrase, "but only after the stage in the proceedings when the court has first had an opportunity to consider ... the originating process or pleadings" et cetera. Accordingly, the Opposition does not oppose the amendment, which I assume will be dealt with after the bill is passed. Restricted access information is dealt with in clause 6 and is defined as any court information that is not open access information. This includes:

- (a) personal identification information,
 - (b) information contained in an affidavit, pleading or statement that has been rejected, struck out or otherwise not admitted,
 - (c) information contained in a transcript of, and statements and affidavits admitted into evidence (including expert reports) in, proceedings on a voir dire,
 - (d) a police fact sheet, statement of facts or any similar document summarising the prosecution's case in proceedings set down for trial by jury, but only after the proceedings have been set down for trial by jury and until the proceedings are concluded,
 - (e) information contained in a statement that comprises a medical, psychiatric, psychological or pre-sentence report, except information contained or summarised in a judgment given or orders made in proceedings,
 - (f) information contained in a statement of a person's criminal record, except information contained or summarised in a judgment given or orders made in proceedings,
 - (g) information contained in a transcript of, and statements and evidence admitted into evidence in, proceedings on an application to a court for an order to prohibit or restrict the publication or disclosure of information, but only while proceedings on the application are pending,
- Note.** If the proceedings result in the making of an order prohibiting or restricting the publication or disclosure of information, section 13 may prevent access to the information.
- (h) information contained in a victim impact statement, other than information contained in a transcript of proceedings in open court or in a record of any judgment given or order made in proceedings,
 - (i) information contained in a letter of comfort provided by or on behalf of the prosecution in connection with criminal proceedings, other than information contained in a transcript of proceedings in open court or in a record of any judgment given or order made in proceedings.

Clause 7 deals with the conclusion of both civil and criminal proceedings. A criminal trial is concluded when the accused is discharged, acquitted or the court either accepts a plea or finds the accused guilty and the prisoner is thereafter sentenced. Proceedings in respect of bail are concluded when they are finally disposed of, including by being withdrawn, dismissed or discontinued. Proceedings on appeal are to be regarded as separate proceedings. Part 2 of the bill deals with entitlement to access to court information. The principle is set out in clause 8 (1), which states:

- (1) Any person is entitled to access to court information that is open access information unless the court otherwise orders.

Clause 8 (2) states that access may be subject to conditions imposed by the court. Clause 9 deals with access to restricted access information. Entitlement is permitted by leave of the court or by regulation. In deciding whether to grant access, a court is to take the following matters into account in clause 9 (2), to the extent to which the court considers them relevant:

- (a) the public interest in access to the information being provided,
- (b) the extent to which the principle of open justice will be adversely affected if access is not provided to the information,

- (c) the extent to which an individual's privacy or safety will be compromised by providing access to the information,
- (d) the extent to which providing access to the information will adversely affect the administration of justice,
- (e) the extent of the person's interest or involvement in the proceedings or other matter to which the information relates,
- (f) the reasons for which access is sought,
- (g) such other matters as the court considers relevant in the particular circumstances of the case.

Clauses 9 (3) and (4) provide that the court can impose conditions on access granted by leave of the court and the regulations themselves can impose conditions. But clause 9 (5) states that conditions imposed can relate only to the way in which access is to be provided or restrict the disclosure or use of information to which access is provided. Clause 10 provides that a news media organisation is entitled to have access to certain court information that is restricted access information, in addition to access to open access information, unless the court otherwise orders. The type of information referred to includes transcripts of proceedings in closed court or proceedings on a voir dire after the conclusion of proceedings, transcripts, and evidence in proceedings on an application to a court for an order to prohibit or restrict the publication or disclosure of information, and the brief of evidence in criminal proceedings. It will be an offence punishable by a maximum penalty of 250 penalty units for a news media organisation to publish any personal identification information, except with the permission of the court or the person to whom the information relates.

Clause 11 provides that a party to proceedings and the party's legal representative are entitled to access any court information that relates to the proceedings unless the court otherwise orders in a particular case. A court may impose conditions on the way in which access is provided or restrict the disclosure or use of the information to which access is provided. Clause 12 provides that this Act is not intended to prevent or otherwise interfere with the giving of access to court information as permitted or required by or under any other Act or law that entitles a person to access court information. An example would be access by the accused to the prosecution brief. Clause 13 provides that there is no entitlement to access to court information under the proposed Act if providing that access would contravene a court order or provision of another Act or law. Part 3 deals with how access to court information is provided.

Clause 14 provides the methods by which a person who is entitled to access court information can be provided access, including by being given a reasonable opportunity to inspect a court record, by being provided with a copy of a court record that contains the information, or by any means provided for by the rules or that the court considers appropriate. A court is to consider any preference that a person expresses as to how access is to be provided and it can impose reasonable conditions. A court may refuse to provide access to court information in a particular case if providing access would require an unreasonable diversion of the court's resources or if it is necessary to refuse access to ensure the safe custody and proper preservation of court records.

Clause 15 provides for the charging of fees for providing access to court information. This may be done by regulation or under the Civil Procedure Act 2005. Part 4 deals with privacy protection. Clause 16 provides that the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002 do not apply to the providing of access to court information under the proposed Act. Clause 17 requires each court to publish on its website, or by other appropriate means, general information that promotes awareness of the potential for information provided by a party to proceedings to be accessed by other persons under the proposed Act, and the court's practices and procedures for preventing or limiting access to personal information.

Clause 18 requires that, to the maximum extent reasonably practicable, the court ensure that court records that contain open access information do not contain personal identification information. Part 2 of schedule 1 provides that section 18 does not apply in respect of a court record created before the commencement of this section. Part 5 deals with the protection of court information. Clause 19 requires a court to take such security safeguards as are reasonable to ensure that court information is protected against misuse and unauthorised access, use or disclosure.

Clause 20 makes it an offence, punishable by a maximum penalty of 100 penalty units or two years imprisonment or both, for a person to disclose or use court information obtained in the exercise of the person's functions as a court officer or in the execution or administration of this Act, except with the consent of the person from whom the information was obtained, in the exercise of those functions or in the execution or administration of the proposed Act, as authorised by the regulations or as otherwise authorised or required by law. Clause 20 (2) provides that a person must not induce or attempt to induce another person to disclose or use

such court information, and clause 20 (3) provides a "good faith" defence that if a court officer discloses court information by providing access to the information and believes in good faith when providing this information that this Act permits or requires that access to be provided, the officer is deemed to have disclosed the information in the execution of this Act. I believe that is a sensible exception.

Clause 21 makes it an offence, with a maximum penalty of 100 penalty units, for a person who is provided with access to court information under the proposed Act to disclose or use the information for a purpose or in a manner that the person knows is contrary to any condition imposed by a court or the regulations on the person's access to the information. Clause 22 enables a senior judicial officer of a court to delegate, in writing, functions of the court under the proposed Act to registrars or other officers of the court. Clause 23 provides that an action for defamation or breach of confidence cannot be brought against the Crown, a court or a court officer or the author of a record containing the information in respect of the disclosure of court information disclosed pursuant to an entitlement under the proposed Act.

Clause 24 protects persons involved in the administration of the proposed Act acting in good faith from personal liability. Clause 25 enables the Uniform Rules Committee under the Civil Procedure Act 2005 to make rules for the purposes of the proposed Act. Clause 26 enables the Governor to make regulations for the purposes of the proposed Act. Clause 27 provides that proceedings under the proposed Act are to be dealt with summarily before the Local Court. Clause 28 provides for the review of the proposed Act in two years, with a report to be tabled before Parliament within 12 months after that time.

Arguments in support of the bill are, first, that the bill streamlines the current complex system of access to court information. Secondly, the bill provides a more transparent system to enable the public and the media to be informed of what takes place in court proceedings and the reasoning behind judgements. Thirdly, the bill enables access to documentary evidence tendered in court proceedings. Arguments against the bill are that under section 8 (2) the principle of entitlement to open access information may still be the subject of court restriction, and that there may be practical difficulties in the implementation of the proposed Act.

Consultation was sought from various parties including the Law Society of New South Wales, the New South Wales Bar Association, the Director of Public Prosecutions and the Legal Aid Commission. The New South Wales Bar Association has indicated that it has no concerns regarding this bill. In a letter dated 1 April the Law Society of New South Wales expressed some concerns with the bill: first, that there is no logical basis for media organisations to have access to restricted access information to which the general public is denied access as of right; and, secondly, that access to restricted access information should not be permitted by regulation.

Currently there is provision in Acts, such as in the Children (Criminal Proceedings) Act, for the media to be entitled to be represented in closed court proceedings and to subsequently write a report that does not reveal names that are prohibited from publication so that the public will be aware of what happens in such courts. Thirdly, open access to written submissions may lead to publication of unfounded or unproven allegations. Finally, the Law Society stated that there are practical concerns as to how access will be granted and implemented, such as where only parts of a document are admitted and parts are ruled inadmissible. The exercise of editing has to be performed in courts every day, and with the use of photocopying machines, blackout pens and cutting and pasting I am sure that problem can be overcome.

A submission received on 14 April 2010 from IMF (Australia) Ltd—described on its website as being the largest litigation funder in Australia—states that the bill is "an intrusion on our right to open justice" and is an attempt to hide pleadings potentially until cases are concluded and to restrict access to evidence produced in open court. There has been debate about the bill in the legal section of the *Australian* over the past month or so. In a report in the *Australian* by Susannah Moran on 9 February 2010 it was reported that Chief Justice James Spigelman had proposed, in a draft practice note, a less restrictive access test to court information for the media than that provided by this bill.

In contrast to the Chief Justice's reported presumption in relation to specified information that is publicly available, the Court Information Bill proceeds on the reverse basis that "any information that is not open-access information is restricted access information". However, in the same edition of the *Australian* the Attorney General supported the State Government's approach to the bill, suggesting that it strikes a balance on access to information. He stated that the bill requires the court to start from the presumption that open access should be granted to court information. However, I note that the bill does not appear to state specifically that general presumption. I recall that the Attorney General subsequently had a letter published in the legal section of the *Australian* indicating that the Chief Justice was happy with the bill. Accordingly, the New South Wales Liberal Party and The Nationals do not oppose this bill.

Mr FRANK TERENCEZINI (Maitland) [7.01 p.m.]: I support the Court Information Bill 2010. This State has a number of pieces of legislation, statutes and decisions about courts releasing information to the public, to the media and to people who claim they are interested parties to the proceedings. This bill seeks to sweep aside all the inconsistencies in the present regime and to replace them with one piece of legislation that will specify the various categories of information—that is, open-access information and restricted access information—and in the process to achieve an open and transparent justice system. People who want to know what happens in a court or why a decision has been made, whether it be a journalist or a member of the public, will now be able to access the relevant information. Many people observing court cases cannot make sense of what is going on. This bill will enable them to access information to assist in understanding the process. With the passage of the bill, people will have access to information that they otherwise would not have by right. That is important because people want to know how justice is dispensed and this bill will achieve that aim.

The Parliamentary Secretary addressed concerns raised in the public domain in his agreement in principle speech. It has been claimed that this new system might have a chilling effect on the release of court information and unfairly target court officers and journalists through the imposition of criminal sanctions. The bill aims to make information more accessible to the public and to journalists to ensure that they properly and accurately report cases before the courts. The list of information classified in this bill as open-access information is extensive and covers most, if not all, of the information that would be needed to enable the public and the media to understand what has happened in court or why the court has come to particular decision.

Provisions have been included to protect the safety and privacy of court participants. For example, there are restrictions on access to information such as medical, psychiatric and psychological reports, victim impact statements and personal identification information such as financial account numbers, personal phone numbers and home addresses. It is recognised that the media has a pivotal role to play in reporting. Of course, journalists must report accurately and they want to access a great deal of information. I was often approached by journalists wanting information when I was leaving the court, and it was difficult to know what information to provide. This bill will resolve that situation because journalists will be able to access the information they require to report accurately. The bill will also enhance public understanding of court processes and decisions.

Recognising the pivotal role of the media in not only reporting court proceedings to the community but also in enhancing public understanding of court processes and decisions, the bill gives the media special access to personal identification information. The media will have access to that information, but it will be required to seek an order of the court to have it released. The goal of providing that information is to ensure that journalists have a better understanding of cases and, as responsible members of the media, that they produce an accurate report. If journalists want that information they can make an application to the court. That is an important aspect of this bill.

Of course, the legislation does provide sanctions. They are included to deal with people who do the wrong thing. That is true of many pieces of legislation. There is no right in life without a corresponding duty. If we do the right thing, all will be well, but if we do not, the bill contains sanctions. I reiterate: The media can make an application to the court to access information, but this legislation enhances the media's ability to produce accurate reports about court cases.

The bill creates offences relating to the release of information. However, it does not seek to impugn or punish any court officer who acts in good faith. Any court officer who in the course of his or her job provides access to information in good faith and as appropriate under this legislation will not be guilty of an offence. The penalties for the new offence are the same as those in the Privacy Act, although the Privacy Act provisions do not apply given the unique nature of this situation. The new system will not make litigators and court officers the guardians of the new privacy scheme as claimed. Rather, the legislation takes a systematic and sensible approach to minimising the number of court records that will be restricted because they contain personal identification information.

It will do that in three ways. First, it will enable the courts to develop rules about when and how parties to proceedings should remove personal identification information for court records. Secondly, it requires each court to publish general information that promotes awareness of the dangers of placing personal information in public documents and publicises the courts practices and procedures for limiting access to personal information. Thirdly, it requires the courts to take reasonable steps to ensure that records contain open-access information and do not contain personal access information. That is very important. This three-pronged system ensures that responsibility for protecting this type of information is shared amongst the legal profession, the court officers and the judiciary. It is a safeguard measure. I reiterate: Court officers acting in good faith have nothing to worry about.

Some claims are based on unrealistic expectations with regard to court proceedings. Anyone can end up in court and some information is released. The parties in a case are not always evenly matched and people do not always choose to reveal personal information. The court is a forum in which disputes are addressed and not every personal detail can be kept out of the public domain. However, we can endeavour to protect the parties from the release of private information, and I believe that this bill achieves a good balance in that regard.

Claims have been made about originating processes in civil matters when filing a statement of claim or defence. I have worked in this field for many years and it makes sense to me that those documents should not be released to the public until the court has had a chance to review them, the particulars have been worked out, and it has been determined that the claim is not frivolous or vexatious, that a defence has been filed and that there are no defects in the documents. That usually occurs on the court's first return date. It is only then that the public should be allowed to see those documents. The release of the information could be detrimental to someone's safety or privacy if there is a defect in the documents. Those issues are dealt with at the first hearing, so there are sound reasons for not making the originating process documents available to the public as soon as they are filed. People should not be concerned about that issue. Once the matter is before the court and proceeding, that information will be released to the public. This bill achieves a good balance and I thoroughly commend it to the House.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [7.10 p.m.], in reply: I thank the member for Epping and the member for Maitland for their contributions to the debate. The Court Information Bill 2010 will promote the principle of open justice and overhaul the existing complex system governing the release of court information. It will do this by creating a statutory framework to govern access to documents and other court information held by New South Wales courts in connection with criminal and civil proceedings. Generally speaking, under the current system non-parties to a proceeding must go through the following steps to obtain court information. First, the person makes an approach to the court, such as by letter, telephone, or in person. Secondly, the court will ask them to identify the matter, indicate what information they want, and state their interest in the matter or provide reasons for wanting access to the information.

Thirdly, a registrar or deputy registrar will consider their request and make a determination at his or her discretion as to whether access should be granted, either in full or in part. Fourthly, if the decision is made to grant access, the registrar, again at his or her discretion, will assess the information to ensure that none of it is subject to a prohibition order or otherwise prohibited from being disclosed, or untendered evidence, or otherwise sensitive or sealed information. Generally, personal identification information is not redacted. Fifthly, if the decision is made not to grant access, the registrar or deputy registrar will provide reasons for the decision and that decision is then reviewable to the court.

The new system established by the bill will make the process much clearer for the courts by removing much of the discretion, particularly in relation to the information that can be accessed and the need to remove personal identification information. The bill also will make the process more straightforward for the public by creating just two categories of information, open access or restricted access. Open access information includes documentation that commences proceedings, written submissions made by a party to proceedings, statements and affidavits admitted into evidence, transcripts of proceedings, and judgements, directions and orders given or made in proceedings. Information that is to be restricted includes personal identification information, such as tax file numbers, personal telephone numbers and dates of birth, as well as information contained in a person's criminal record, a medical, psychiatric, psychological or presentence report, or in a victim impact statement.

The public may still access information that is classified as restricted. The difference is that unlike open access information, which the public is entitled to access by right, when someone wants to access restricted information the court is required to determine whether they should be given access. The bill sets out a number of matters that the court is required to take into account when making that determination. These are: first, the public interest in access to the information being provided; secondly, the extent to which the principle of open justice will be adversely affected if access is not provided to the information; thirdly, the extent to which an individual's privacy or safety will be compromised by providing access to the information; finally, the extent to which providing access to the information will adversely affect the administration of justice.

Essentially, the court is required to undertake a balancing exercise between the public interest in allowing open access and the public interest in protecting the information from disclosure. However, the bill makes it clear that the courts should favour providing open access wherever possible. Section 3 explicitly states that the object of the regime is to provide for open access to the public to certain court information to promote

transparency and a greater understanding of the justice system. The provisions of the bill must be considered in this context and the courts will need to consider any request for access to restricted access information with this objective in mind.

The member for Epping referred to the Chief Justice's practice note. Certainly we are aware of recent media reports that suggested that the bill is more restrictive than the Chief Justice's draft practice note. In part, this suggestion is based on the notion that the practice note provides for open access to information unless specifically included in a list of restricted access documentation. The bill, on the other hand, is drafted in such a way as to list open access information then provides that any information that is not open access is restricted access, with exceptions for the media. However, the practical effect of the bill and the practice note is essentially the same in terms of the information that can be accessed by the public and the media. There are certainly a few points of difference. For example, the suggestion that the presumption in favour of open access will be reversed under the bill is false. The bill removes the court's discretionary power and replaces it with a framework for granting open access to court information, balanced against the need to ensure that access does not compromise the fair conduct of proceedings, or the administration of justice, or the privacy and safety of participants in court proceedings. As I have indicated, the Government is confident that it has the balance right.

I point out that the Chief Justice supports the bill and the bill has been developed in close consultation with the Chief Justice. The member for Epping also raised the information about limited consultation in relation to the bill. Starting in June 2006 there has been three years of consultation on this bill, with the then Department of Attorney General releasing a discussion paper entitled "Review of the Policy on Access to Court Information". Subsequently, in July 2008, the then Attorney General's Department released a report entitled "Report on Access to Court Information".

The bill implements the recommendations of that 2008 report, which took into account submissions from organisations across New South Wales, including the Australian Press Council, the Apprehended Violence Legal Issues Consultative Committee, Free TV Australia/John Fairfax Holdings Ltd., and the Law Society of New South Wales. Since the bill was first drafted there has been extensive consultation with the media, including Australia's Right to Know Coalition, the Australian Press Council, the Australian Broadcasting Corporation [ABC] and Special Broadcasting Service [SBS], the courts, including at a judicial level through the Chief Justice of New South Wales, the Chief Judge of New South Wales and the Chief Magistrate of New South Wales, and at an operational level in each of the courts affected by the bill. Also there has been consultation with the legal profession, including the Law Society of New South Wales, the Bar Association of New South Wales and the Director of Public Prosecutions.

Access to court information is a complex area of law requiring a balance between the competing considerations of open justice and individual privacy. It has not always been possible to accommodate the concerns and views of every stakeholder in every instance, particularly where stakeholders have conflicting interests. However, the Government is confident that it has the balance right in this bill, and we are very thankful to all the organisations I have mentioned for their invaluable contributions to the development of the Court Information Bill.

Under the new system, the public will have an entitlement to access a broad range of documents and information that will be clearly identified in the legislation. The public will not have to seek the court's permission to obtain access to information classified as open access information. The public can access this information as of right. Ultimately, the new regime will create greater clarity in relation to rights of access to court information. It replaces current provisions that rely heavily on vague and uncertain discretionary powers to grant access with a system that classifies information as either open to the public or restricted access. Given the complexity of the existing law on access to court information and the importance of getting the balance right between open justice and other public interests, such as the safety and privacy of court participants, the bill has required a significant amount of time and resources to get to this point.

As a result of that consultation process, the Government is confident that it has the balance right in this bill. I foreshadow that the Government will seek to make a minor amendment to the bill to clarify the policy intention behind delaying open access to originating processes and pleading in civil matters. This amendment will make it easier for the public and court staff to identify the point in time when access may be sought and given. I commend the bill to the House.

Question—That this bill be now agreed to in principle—put and resolved in the affirmative.

Motion agreed to.

Bill agreed to in principle.

Consideration in detail requested by Mr Barry Collier.

Consideration in Detail

Clauses 1 to 4 agreed to.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [7.18 p.m.]: I move Government amendment No. 1:

No. 1 Pages 4 and 5, clause 5 (2) (a), line 36 on page 4 to line 2 on page 5. Omit all words on those lines. Insert instead:

- (a) originating process and pleadings in proceedings, but only after the stage in proceedings when the court first has an opportunity to consider any objection by the parties to the inclusion of any information in the originating process or pleadings (including in any cross-claim) or the proceedings have concluded, whichever happens first,

The Report on Access to Court Information considered that originating process and pleadings in a civil matter should be open access information. The bill has implemented this recommendation. In submissions to the Review of the Policy on Access to Court Information, media organisations argued that the originating process and pleadings in civil matters should be able to be accessed as soon as they are filed. Others argued that there should be a presumption in favour of releasing these documents but only after the proceedings have been concluded.

If immediate access to originating process and pleadings were allowed upon filing, it could lead to this material being published in the media before a defendant has had a chance to raise with the court any concerns about what may be contained in these documents, particularly if the proceedings are frivolous, vexatious or oppressive. It could also lead to these documents being accessed by third parties and published before the defendant has even been served with the documents. Therefore, the resulting scheme proposed in the report and reflected in the bill creates a delay between the filing of an originating process and any pleadings and the automatic accessibility by the public as open access information. This delay is designed to give the defendant to any civil proceedings the opportunity to be served with documents before the documents are available to the public, to raise any objection to them and to make a cross-claim if that is desired.

The report suggested that the first listing date of a matter would be an appropriate day after which the originating process or pleading is to be classified as open access information. However, when the bill was being drafted it was discovered that the concept of the first listing day is not reflected in any other statute or in court rules or regulations. Section 5 (2) (a) of the bill was therefore drafted so that the originating process and pleading in a civil case would become open access information after the stage in proceedings when the court has the first opportunity to consider the originating process or pleading, including any cross-claim.

Since the bill was introduced in the House on 19 March 2010, the Government has reviewed section 5 (2) (a) and recognised that the current wording in the bill may not have made that policy intention clear. For that reason, I have moved that the bill be amended to provide that the originating process and pleading in civil proceedings be open access information but only after the stage in the proceedings when the court first has an opportunity to consider any objection by the parties to the inclusion of any information in the originating process or pleading, including any cross-claim, or the proceedings have concluded, whichever happens first.

The only difference between the amended section and the previously drafted section is the inclusion of the words, "any objection by the parties to the inclusion of any information in ...". The Government's view is that the revised wording, which was endorsed by the Chief Justice as part of our extensive consultations with him in drafting this bill, makes it clear that the delay between filing originating process and pleadings and their accessibility by the public as open access information is designed to allow the defendant to be served with these documents, to make any objection and to make a cross-claim if desired.

I also point out that the bill continues to recognise that in some civil matters the defendant may fail or the nature of the proceedings is such that there is no defendant. In these cases the proceedings may never be

listed before a court for a first hearing. Therefore, amended section 5 (2) (a) of the bill continues to provide that the originating process and pleadings filed in matters that have been concluded will also be open access information. I commend the amendment to the House.

Mr GREG SMITH (Epping) [7.24 p.m.]: The Liberal Party and The Nationals do not oppose that amendment.

Question—That the amendment be agreed to—put and resolved in the affirmative.

Amendment agreed to.

Clause 5 as amended agreed to.

Clauses 6 to 28 agreed to.

Schedules 1 and 2 agreed to.

Consideration in detail concluded.

Passing of the Bill

Motion by Mr Barry Collier, on behalf of Ms Carmel Tebbutt, agreed to:

That this bill be now passed.

Bill passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

CARDIFF RAILWAY STATION UPGRADE

Matter of Public Importance

Mr MATTHEW MORRIS (Charlestown—Parliamentary Secretary) [7.26 p.m.]: It is with great pleasure that I speak this evening on a matter of public importance relating to the Cardiff Railway Station upgrade. I am pleased to say that this Government is very much committed to providing safe and reliable transport services across New South Wales. Rail in New South Wales provides vital services to commuters travelling to Sydney, around the Hunter and the greater Sydney regions, as well as to CountryLink destinations across the State. Hundreds of thousands of commuters use our trains every day, and we are constantly looking to improve train services and facilities, as well as stations on the network. We need to ensure that our stations are accessible for commuters. If stations are improved and easier to access, more people will be likely to use public transport.

That is why the New South Wales Government has announced upgrades for Cardiff station on the Newcastle rail network. Cardiff will undergo a \$6.5 million upgrade, to make it more accessible for passengers, but particularly families, the elderly and the disabled. The improvements to Cardiff station—announced by the Premier on 3 May—will increase the safety, comfort and accessibility of the station for the hundreds of rail passengers who use it every day.

The accessibility upgrade will include two lifts, one from the footbridge to the platform and another from the footbridge to the Mary Street car park providing wheelchair access. The lift entries will have new canopies to provide shelter from the sun and inclement weather for passengers waiting to use the lifts. This is in addition to the current program of works placing canopies across areas of the station platform regularly used by commuters. The western and eastern ends of the platform will undergo extensions to allow better utilisation of existing network trains. The footbridge to the west will be extended to meet the new lift and link up with the Mary Street car park, providing better access to transport and to and from the station.

In addition, a new ramp on the eastern side of the footbridge will link passengers to Main Road. To support the extension of platforms and ramps as well as to provide greater safety for passengers, closed-circuit television [CCTV] and station lighting will be extended accordingly. These works are in addition to the existing facilities for disabled users at the station, including a hearing loop, tactile platform tiles and a portable boarding

ramp. While the station currently provides toilet facilities, in the future, as a result of this upgrade, passengers will have access to a family-accessible toilet, which includes enough space for wheelchair users and parents with young children and has baby-changing facilities. Work has already begun at the station to improve the safety and stability of the retaining wall between the car park on RailCorp land adjacent to the western station entrance and the council's Mary Street car park.

These initial works, due for completion towards the end of 2010, will include an extension as well as improve drainage. These works will assist with entry to and exit from the car park area adjacent to the western station entry. Cardiff train passengers will also benefit from new station canopies, with work on this part of the upgrade to start as early as this month. These canopies will help keep passengers dry if it rains as well as provide shade during warm summer days. This project is worth \$300,000 and is over and above the \$6.5 million upgrade announced this month.

To minimise the impact on passengers, especially given the many works being undertaken at Cardiff, the accessibility upgrade at the station will coincide with work to lengthen the platforms. Under the upgrade, the platform will be extended to approximately 200 metres. Construction on the platform lengthening and the accessibility upgrade of the station will start in early 2011. Without doubt, this is great news for commuters in Cardiff and will hopefully encourage more people to use our local rail network. Again, the upgrade is a massive win for the people of the lower Hunter.

There has been an expensive and lengthy campaign by the community over many years—it is touted to be up to 18 years. I know it has been 13 years, but others claim 18 years. Clearly there has been a very long and at times bumpy campaign to bring the project to this point. I personally have been advocating to the Minister for Transport and Roads for some time—and that goes back over several Ministers—as commuters have been consistently lobbying me as well as general community members who are looking out for the public interest to make sure we provide fair and equal access to all in our community. Cardiff has an elderly and disabled community that wants to use the rail station but effectively has been prohibited. The most recent figures I have secured indicate that in the Cardiff postcode, as a simple catchment, a little over 4,000 people are on either a disabled or aged pension. Granted, not all of those will benefit from the easy access upgrade at Cardiff but it is fair to say without a doubt that the great majority will certainly take advantage of being able to access the station and use our local rail services.

This upgrade will deliver access to all residents in and around Cardiff and certainly the surrounding community as well. It is not restricted to Cardiff. There will be two new lifts, ramps, CCTV cameras and lighting. That is fantastic news for Cardiff. I am very pleased that we have been able to put the money on the table and demonstrate to our local communities that we are committed to providing fair and equal access to rail stations. Most importantly, it will give those people who have been precluded from using Cardiff the opportunity to be part of the community and the rail commuter network.

Many people deserve to be acknowledged. I certainly do not have the time to put all their names on the record tonight but I will refer to some of them in some detail in my reply to the debate. This announcement is a clear sign that this Government is serious about rail. Whilst it has been a lengthy and testing process it has been pleasing as well and there has been a lot of support internally in the Government to bring us to this point.

Ms GLADYS BEREJIKLIAN (Willoughby) [7.33 p.m.]: I appreciate the opportunity to speak on this important issue. It is eight months to the day since I visited Cardiff and saw firsthand what a struggle it is for commuters in that part of the lower Hunter-Newcastle area just to use the station. Standing orders do not allow me to hold up the petition I received on that day but I will describe it for the benefit of members. It was a photo petition I received on behalf of the local community on 12 August last year. On one side there is a picture of a parent trying to get a pram up a long flight of stairs and on the back of the petition there is a photo of a lot of elderly residents, to whom the member for Charlestown referred in his remarks, trying to carry luggage up or down the stairs.

Unfortunately, commuters who use Cardiff railway station have heard this announcement before. The State Government has the gall to make this announcement before every election. In fact, it was promised before the 2007 election that Cardiff would receive an easy access upgrade. Of course that did not happen. The previous speaker was correct when he said this issue has been long and protracted because it has been bubbling along since 1993. Admittedly the Labor Government had refused to commit to any upgrades but it did so prior to at least the last State election and nothing has happened in the three and a bit years since. The Government is

now saying, "Yes, we've promised this to you before and we haven't done anything. Trust us now, we're going to do something early next year." What does that mean? It means the Government cannot be trusted because unfortunately it has made this promise before and it has not been fulfilled.

When we look at the most recent budget papers for details of the Government's Easy Access Program, a number of railway stations were listed to receive funding—from memory, about 11 or 12—but only one received funding in that financial year. The State Government admitted when it made this announcement initially that the Easy Access Program would not be completed until 2016. Even though the Government made an announcement about the Easy Access Program before the last election and made the commitment that led the people of Cardiff to believe they would get the easy access upgrade, after the election when the station appeared on the Easy Access Program the forward estimates showed it would not be complete until 2016. The Government misled the community and it has done nothing in the past 3½ years. Suddenly the Premier thinks it is an issue so she has gone up there and re-announced the previous commitment. It is really unfair to the people of Cardiff.

As I said, I witnessed firsthand how difficult it is to gain access to that station. That part of the lower Hunter-Newcastle area is an important part of the New South Wales community and it is growing. Many people need to get around for work purposes, medical appointments, visits to Sydney and many other reasons. It is simply unfair that they have been promised this station upgrade for many years and it has not transpired. Now that an election is looming and the Labor Party thinks it is in trouble in some of its heartland areas it has decided to make this re-announcement. That is unfortunate because the Government cannot be trusted. Why should the people who use Cardiff railway station believe something that was promised on previous occasions when the Government has let them down?

In fact, in August 2009 the Government said it would be at least seven years before a lift would be installed at Cardiff and that was reported in the *Newcastle Herald*. I would like to refer to the commentary on this issue in the *Newcastle Herald*, which appeared on 1 May. The *Newcastle Herald* acknowledged the long and arduous wait for residents. It also acknowledged on 1 May that the Government documents tabled in State Parliament last July said that Cardiff station had missed out for the next six years on Easy Access Program works. Obviously this is a last-ditch attempt by the State Government to neutralise what it perceives to be a huge political issue instead of considering what a struggle it is for commuters to use the station. I have nothing to say against those members who may have advocated to their Government that this work was necessary but obviously they have not been listened to and have been ineffective.

The issue has been bubbling along since 1993. I have in front of me an extract from the New South Wales Legislative Assembly *Hansard*, which reports the then member, Mr John Mills, asking the Minister for Transport about lifts and access to Cardiff railway station. This issue has been around since 1993; it is not a new issue. Unfortunately, before every election a commitment and a promise are made to the electors of Cardiff, but they are let down afterwards. Here we go again on the merry-go-round. There is a new Premier and a new political problem. She went up there and made an announcement, but unfortunately the people of Cardiff have heard it all before.

When I visited Cardiff I made a commitment to the community generally that we would take the Easy Access Program extremely seriously because we appreciate that people must have access to the rail network, especially those who are most vulnerable.

Mr Matthew Morris: It is a good service. Sharing and caring.

Ms GLADYS BEREJIKLIAN: I will not respond to the member's interjection because it would embarrass him. Public transport is the only option that many people have. Given the demographics in that region, many people do not drive for health reasons or because of age, mobility, access or other reasons. Their sole means of moving around their region and the rest of the State and coming to Sydney is the rail network. If they cannot access the rail network because the stairs are too difficult for them to manage and they cannot access the rail network because it is not safe to take a pram up and down the stairs on their own, it is a serious issue. I say to the people of Cardiff that I appreciate their frustration. I understand why they do not believe this work will happen given that the State Government made the commitment before at the last election. Nothing has happened in the intervening period.

Mr Matthew Morris: That is wrong. You are misleading the House.

Ms GLADYS BEREJIKLIAN: The member interjects about that commitment. This document says the Cardiff station upgrade was first announced as a 2007 election promise. It says canopies were to be installed at 22 stations to improve passenger comfort. One of those stations was Cardiff. Cardiff was to receive an accessibility upgrade and that has not happened.

Mr Matthew Morris: Table it.

Ms GLADYS BEREJIKLIAN: I seek leave to table the document as requested by the member for Charlestown.

ACTING-SPEAKER (Mr Thomas George): Order! There is no provision under the standing orders for the member for Willoughby to table the document at this time. I am sure that she can provide the member with a copy.

Ms GLADYS BEREJIKLIAN: I do not want to be seen to be obstructing the standing orders of the House. The information is available to all members.

Ms SONIA HORNER (Wallsend) [7.40 p.m.]: A month ago I made a private member's statement that I titled "Stairway to heaven or hell". I began the speech by stating:

"And she's buying a stairway to heaven". No thanks. What we need at Cardiff railway station is a lift instead.

The community has reminded me about the 84 steps embedded in its mind because it takes 84 steps to climb to the footbridge and to then get down the footbridge to reach the platform. As members could imagine, 84 steps is an almost impossible task for even the fittest. As I mentioned during my private member's statement, even Robert de Castella would get a workout walking to the top of the footbridge. I thank Brian Young, an elderly gentleman who has lived in Cardiff all his life. He organised a 10,000-signature petition that he gave to my predecessor, John Mills, to present to the Parliament urging the then Government to build a lift at Cardiff railway station.

I thank Brian Young for his tireless efforts and hard work in contributing to the good news we have tonight. I thank the President of Northlakes Business Chambers, Rob Denton. He and his colleagues have worked hard in the Cardiff central business district to obtain funding for the lift because they recognise the economic benefits of having a lift in their area. The lift will enable more people to catch a train to town or to Sydney. It has huge economic benefits to the people of Cardiff. Rob recognised that and deserves praise for his hard work. I also acknowledge my predecessor John Mills. The member for Willoughby rightly stated that this issue has been around for a long time. Indeed, it was raised in 1992 when Bruce Baird was the Minister for Transport in the Greiner Government. At that time Minister Baird gave assurances to the then member for Wallsend, John Mills, about building a travelator at Cardiff. Unfortunately, the Greiner Government did not live up to its promise and we missed out. The issue has been bubbling for a long time. Even in 2002 the management of Lynden Grove Retirement Village stated:

Many of our residents are now unable to manage the many steps at Cardiff Station and when travelling will catch a bus at Broadmeadow Railway Station and catch the train from there, rather than attempt the stairs at Cardiff.

The train line was built in 1887, so it is 123 years old, and it is great that improvements are now being made. The member for Willoughby is right: the lack of access to a lift removes options for people who are disadvantaged. Everybody, regardless of his or her ability or disability, should have the right to catch public transport. Cardiff railway station has the third highest patronage in the Hunter area. It is a busy station and therefore deserves a lift. I also thank the community. It was people power that persuaded the Government to commit to funding the lift. The member for Charlestown and I know that the Government has committed \$6.5 million, and that is an important promise to us. It is important to the economic recovery of Cardiff.

Cardiff has had many huge and regular street stalls, which I hope helped towards this funding. The community have told me that they want the lift and they will certainly use it. I believe in encouraging public transport. This lift will ensure that it is more convenient for people in the Cardiff area to catch a train to Newcastle or to Sydney. That in turn means that more people will be off the road and on public transport, which is a good thing. Finally, I commend the Government for its \$6.5 million commitment. Anyone visiting Cardiff will see the stabilisation work and all the heavy machinery: the work has commenced.

Mr MATTHEW MORRIS (Charlestown—Parliamentary Secretary) [7.45 p.m.], in reply: I thank the member for Willoughby and the member for Wallsend for their contributions. I shall now clarify the reality for

the member for Willoughby. Given that I was a candidate in the 2007 election, one would assume I would know whether I or anybody else made an election commitment about an easy access upgrade for Cardiff. The information she has been kind enough to provide to me is clearly unsolicited and unauthorised. There is no genuine tone about it. I would not be surprised if one of the staff knocked it up somewhere. Nevertheless, I will put that aside because it is appropriate to thank everyone who has been part of the campaign to bring this project to this point.

I assure members that I will monitor the process to ensure that we are successful in doing detailed project designs, that we go to tender as planned and start construction as indicated. This project is the result of much community effort, and I pay tribute to Brian Young in particular. I thank the member for Wallsend for mentioning Brian also. Petitions, letters and emails have flowed in consistently, enabling us to build a case in support of an easy access upgrade. The business chamber in Cardiff also has been active, certainly over the past 18 months, in supporting the campaign. Historically there has been strong support from the Extremely Disabled War Veterans Association of Newcastle in the Hunter region and Lynden Grove Retirement Village, to name a couple of local groups that were supportive and prepared to put their name to paper. The easy access project is great news for Cardiff and for Hunter rail services.

There has been much debate but that is normal in such situations. We are very much committed to delivering this easy access upgrade and I will ensure that we follow through on the promise. Indeed, I put my reputation on the line and commit to the people of Cardiff. Now that the announcement has been made it is my role to ensure that we deliver. I give a commitment that I will do that: I will look after the interests of rail passengers and the community so that they keep faith in us, as a government, regardless of what the Opposition might say.

Funnily enough, the member for Willoughby found her way to Cardiff. That was probably a bit of good luck. Other members of the Opposition have visited Cardiff, including the Hon. Michael Gallacher, who made a song and dance about inaction. But what has the Opposition offered? Diddly-squat; nothing. It never has and it never will. That symbolises the Opposition's attitude to a range of matters, not only in the Hunter but across the State. The member for Willoughby may have shown up but she made no commitment and gave no solid indication of what she would do, how she would secure funding and, most important, within what timetable. People will judge the Opposition on its merits.

The Government's commitment of \$6.5 million is fantastic news. Over the next couple of years Cardiff station will undergo a major makeover resulting in a state-of-the-art facility, which will provide fantastic services to those in the community who need that support. It will be a great day when the work is completed and the lift is up and running. I will be pleased to stand with representatives of the business chamber, community members such as Brian Young, my parliamentary colleagues and former parliamentary colleagues—I know that John Mills put in a tremendous effort to help this project come to fruition. Many people need to be acknowledged and they know who they are. I place on record my sincere appreciation to them for their assistance. This is fantastic news and I congratulate the Cardiff community. It is a win for rail services in the Hunter.

Discussion concluded.

ASSISTANT-SPEAKER (Ms Alison Megarrity): The matter of public importance having concluded, private members' statements will now be proceeded with.

PRIVATE MEMBERS' STATEMENTS

FRUIT BAT CROP DAMAGE

Mr RUSSELL TURNER (Orange) [7.50 p.m.]: Tonight I speak about a disastrous event that occurred 10 weeks ago in Orange—fruit bats flew into Orange, virtually for the first time. About 5,000 to 6,000 bats arrived and took up residence in the streets of Orange around Cook Park. Every evening the bats have been flying into the orchards. Ten weeks ago, when orchardists were in the middle of their apple harvest, the bats started destroying the apple crop. This year the apple crop was one of the best that orchardists have had in the past 10 years: there was no frost, no hail, a reasonable rainfall and enough water in the dams to water the crop.

Orchardists were looking forward to catching up on what they had missed out on over the past few years, but the bats have now invaded their orchards. The bats are chewing on mature, ripe apples that are ready

for harvesting and they are also destroying the buds, which will affect next year's crop. It has been demoralising for orchardists. This week Orange City Council came to the party and donated \$10,000 to fund a strike force charged with convincing the State Government to take the problem more seriously. I quote from the *Central Western Daily* dated Monday 10 May, which states:

Last weekend marked 10 weeks since the bats first flew into Orange.

Their colony size is estimated to be around 3,000.

I am not sure how accurate that figure is. The article continues:

The state primary industries and environment ministers have been invited to inspect the damage the bats have done to the local horticultural industry but continue to decline the offer.

Those Ministers said that they do not have time to come to Orange, but they will do so if they find the time. The article then states:

Wright's Lane fruit grower Guy Gaeta is one of several industry representatives appointed to the newly formed strike force.

"What we do out here is like hanging \$50 notes on clothes lines," Mr Gaeta said yesterday.

"If someone comes along and starts taking those \$50 notes of course you're going to try to do something about it.

We need help to make the bats move on or they'll have to be culled.

It's as simple as that."

Nashdale orchardist Peter Darley estimated the bats had caused \$33,000 damage throughout 4.5 hectares of fruit trees.

"That money will now not be spent in Orange, it's just gone," he said.

David Gartrell said Orange City Council should assist the fruit growing industry in the same way it supported other industries in times of crisis.

"Because the threat these bats pose to Orange growers is just as real as water shortages was to Cadia (Valley Operations)," he said.

He was referring to the goldmine just outside Orange. The article continues:

If the current rate of damage was to continue, it would make growing apples in Orange unviable.

The Minister for the Environment, Frank Sartor, organised a meeting tomorrow in room 1136 in Parliament House. He invited all members of Parliament whose electorates are affected by flying fox related issues. The member for Coffs Harbour, the member for Hawkesbury, the member for Ballina, and I, as the member for Orange, will attend that meeting to hear what the panel of speakers has to say. Our orchardists need far more support than they are getting at the moment. I believe that about three orchardists have been given permission to shoot 25 of those 5,000 bats. They have to shoot them in flight from at least 25 metres away, and they are supposed to do that in the dark—at 1.00 a.m., 2.00 a.m. or 3.00 a.m.

I call on the Government to carry out an audit of all the fruit bats throughout New South Wales. I call on the Government also to conduct research to establish how to relocate those bats into all the national parks that it introduced since it came to office in 1995. If the Government does not do that I call on it to provide low-interest loans to enable orchardists to erect netting to protect their future crops. [*Time expired.*]

Mr GRAHAM WEST (Campbelltown—Minister for Juvenile Justice) [7.55 p.m.]: I thank the member for Orange for raising this important issue. I also live in an electorate that is affected by flying foxes. I sit at home on a summer night and watch hundreds of flying foxes destroying tonnes of fruit in my neighbour's crop. This destruction is distressing for everyone in that industry. The member for Wollondilly, the member for Camden and the member for Heathcote, who also live in areas that are affected by flying foxes, have raised this issue with the Minister for the Environment. Tomorrow I will attend that meeting in the hope of reaching a sensible and long-term solution. Fruit bats are not just affecting orchardists by doing enormous damage; they are also causing long-term damage to the Royal Botanic Gardens in Sydney and to other important cultural sites.

I agree with the member for Orange: we need a long-term sensible solution that enables us to deal with the flying fox problem in a way that assists orchardists and cultural institutions. The Australian Museum's

mammal book shows that the range of flying foxes has increased between the time of its first printing and its last edition. I am interested to hear the scientific evidence that will be presented tomorrow. I thank the member for raising this important matter.

SCENIC HILLS EXTENSION PROJECT

Mr GRAHAM WEST (Campbelltown—Minister for Juvenile Justice) [7.56 p.m.]: I have been lucky enough to grow up in Campbelltown, which is surrounded by trees, hills and bush. Over that time there has been much change in our area, but not always for the better. There are two areas that the community has consistently defended: the Scenic Hills and the lands that are now encompassed by the Dharawal State Recreation Area, which was protected by a Labor Government. Once again both those areas are under threat. It is incumbent on us all to try to save them. The Scenic Hills provide a glorious backdrop to Campbelltown—a band of green that stretches from Mount Annan Botanic Gardens all the way through to the Crossroads.

Anyone who has driven along that stretch would appreciate it. It is also a backdrop that is visible from almost every point in Campbelltown: it is visible from the valleys and the high points and it is a real feature. It is a reminder of our rural heritage—my great uncle ran away to a dairy farm—and it is also testimony to Campbelltown's claim as the first green city in Sydney. Unfortunately, AGL has proposed a gas processing plant on that site. That in itself is an important project but the use of that site potentially will set a precedent that destroys the Scenic Hills. I am sure that AGL would not like to be seen as destroying the Scenic Hills. I ask it, as a good corporate citizen, to find a new site. I fully endorse the comments made by my friend and colleague Dr McDonald, who spoke in detail about this issue yesterday.

The other threat to the natural heritage of our area comes from proposed mining by BHP Billiton or Illawarra Coal in the Dharawal State Conservation Area. A Labor Government created the Dharawal State Recreation Area following a grassroots campaign to protect Crown land forest and the important Wedderburn koala colony. BHP, which is now planning to mine the entire area, applied to the Government to mine not just for the next few years but for the next 30 years. Part of that plan puts longwall mining in the State recreation area, with the potential of damaging the O'Hares Creek system and the fragile upland swamps that surround it.

Despite its name, O'Hares Creek is the major tributary of the Georges River. My brother and I have enjoyed full-flood canoeing in parts of the Georges River, but it was not until we hit the confluence of O'Hares Creek that we had a serious river to paddle down. Any threats to that area are a real and present danger to the entire Georges River system. It will impact not only on people living in Darkes Forest and Wedderburn but also on those living in Airds, Kentlyn, Minto, Long Point, Macquarie Fields, Casula, Liverpool and anyone using the aquatic environment of the Georges River and its tributaries.

Recent reports from the Colong Foundation show that longwall mining can severely damage the natural environment, as has occurred in the Bathurst area. Longwall mining is far more damaging than traditional methods of coal extraction. I observed also that longwall mining employs fewer people than for traditional forms of coal extraction. It is proposed to have mining under hanging swamps in the O'Hares Creek catchment. These swamps provide not only an amazing habitat and act as a filter for this clean catchment, but also ensure that even in dry times water seeps into the catchment to keep it alive.

In the National Parks and Wildlife Service guide, with which all members have been issued, among the highlights of the Dharawal State Conservation Area are the "Woronora Plateau west of the Illawarra escarpment, which supports a complex and diverse range of threatened species and vegetation communities including upland swamps, shale forest and western gully forests". The guide suggests also that people enjoy "picturesque creek crossings". Of course, in the Georges River and the Waratah rivulet we have seen the damaging impact that longwall mining can have by destroying or damaging those systems. BHP Billiton has been unable to provide me and the community with a guarantee that the catchment and swamps will not suffer subsidence. While I genuinely believe BHP is trying to reduce the chances of that potential subsidence—I appreciate its decision not to mine under O'Hares Creek—I do not believe it should make an application for this area until the science is better developed, or it should at least use a less damaging method of mining.

Therefore, I call on BHP Billiton not to apply to mine this area in the short term as a 30-year application is too long in times of climate change uncertainty. In this instance we should adopt the precautionary principle regarding a valuable State asset. Indeed, the Dharawal State Conservation Area is one of the last catchments in the Sydney Basin in such pristine condition. If BHP does not withdraw this application, the Government should defer this part of the plan. Such a deferral will not affect the short-term and medium-term

mining operations, nor will it impact on the short-term and medium-term employment options. Indeed, part of this plan has BHP applying to next year's mining. It certainly is capable of planning for a much longer time frame. Such a deferral would be a great investment in the future environment for our children and for the entire area.

FREIGHT SHIPPING

Mr DONALD PAGE (Ballina) [8.01 p.m.]: The Pacific Highway upgrade continues, albeit slowly, and people continue to lose their lives on this road. The 2007 AusLink report entitled "Building our National Transport Future: Sydney-Brisbane Corridor Strategy" stated:

"Freight on the Sydney to Brisbane corridor will almost triple between now and 2029 to approximately 17 million tonnes per year. This compares to an exact doubling of freight on most other AusLink corridors."

Obviously, this will impact severely on my electorate of Ballina, and indeed on other communities along the Pacific Highway between Sydney and Brisbane. Another viable freight option at the moment is rail. I supported the former Federal Coalition Government's investment in interstate rail that aimed to increase freight carried by rail around Australia from 17 per cent to around 34 per cent. Whilst moving more freight on the rail system is a commendable and logical initiative, large amounts of freight remain to be carried on the roads. I take this opportunity to again raise the idea of investing in sea freight.

The Pacific Ocean is a major freight corridor between Melbourne, Sydney and Brisbane yet is not really used for domestic freight movements within Australia. Coastal shipping in Australia consists mostly of heavy cargoes such as coal, iron ore, bauxite, alumina, crude oil and petroleum being transported long distances. While road transport will always be a significant player in moving freight from one destination to another, I am very interested in new types of ocean-going vessels. Coastal shipping has been developed in the United States as an alternative, efficient, cost-effective and economically viable way of moving freight between ports. There is much potential for these new types of vessel in Australian waters. These vessels travel faster and are smaller than conventional ships, which make them more economically viable than the slower, larger freighters of the past.

They can travel up to 35 knots and carry up to 250 containers, depending on the size of the vessel. They also have a simple load and unload arrangement. Some ships will carry containers, while others will allow for prime movers to unhook their entire trailers and leave them on the vessel. These ships then travel to the desired port where another prime mover will hook up the trailer and deliver the goods to the local destination. Unlike large ships, smaller freight ships can be in and out of a port quickly and need minimal port infrastructure. Rather than loading a semitrailer in Brisbane and the driver travelling through the night to get to Sydney the next day, containers could be loaded onto ships that then travel between ports via the Pacific Ocean in roughly the same amount of time.

Using the Pacific Ocean is an environmentally friendly freight transport option. A discussion paper called "Climate Change and Australian Coastal Shipping", published in October 2007, noted that the National Greenhouse Accounts claimed the national transport sector was responsible for 15 per cent of the country's greenhouse gas emissions. The majority of freight emissions, 84 per cent, came from road transport, with coastal shipping accounting for only 4 per cent of greenhouse gas emissions. Also, there is no infrastructure to maintain except the port facilities, which are generally already in place. This is in contrast to the high cost of maintaining roads and railway lines.

Coastal shipping would see a reduction in heavy vehicles on the Pacific Highway leading to safer roads and a decrease in road maintenance costs and fatal accidents. This is especially important given that only 50 per cent of the Pacific Highway between Hexham and the Queensland border is upgraded to dual carriageway standard. The heavy vehicle freight industry will always have a place in New South Wales and Australia, but in the twenty-first century we must turn our thoughts to alternatives. Unless there is a significant injection of funds into the State and Federal roads budgets our roads will not cope with the predicted increase in heavy freight. Certainly, rail freight is increasing, but there remains a substantial gap for new alternatives in the freight transport market.

This is where coastal shipping can play a major role in the future movement of freight around Australia. We must immediately start exploring the open corridor at our doorstep in the form of the Pacific

Ocean. Coastal shipping is a large industry in Europe and our New Zealand neighbours are embracing coastal shipping, producing a national strategy for domestic sea freight. The New Zealand Government promotes intermodality as:

The effective use of different transport modes in combination to achieve an optimal and sustainable use of resources and the most effective supply chain. This means integrating freight movement by ship with delivery to and from ports by rail and road on the basis of the best fit for the particular consignment.

I urge the State and Federal governments to look more seriously at coastal shipping as a freight option, particularly along the east coast of Australia. It would save money, make our roads safer and reduce greenhouse gases.

CUMBERLAND BUSINESS CHAMBER EXPO

Mr NINOS KHOSHABA (Smithfield) [8.06 p.m.]: I take this opportunity to inform the House about the work of the Cumberland Business Chamber in organising its recent expo. The Cumberland Business Chamber Expo provides an opportunity for local businesses to network and share ideas aimed at benefiting all parties involved. In light of the global financial crisis, there have been some considerable strains on local businesses to realise growth opportunities. I am glad that they persevered and now are in a position to look forward and capitalise on the opportunities that lie before them. The Cumberland Business Chamber Expo is a great forum through which to realise those opportunities. More than 40 major businesses within the Smithfield-Wetherill Park business community were involved in the expo. They all had the opportunity to liaise with each other, build long-term relationships and work together to improve their respective growth prospects.

Western Sydney has one of the fastest growing regional economies in Australia, producing \$80 billion worth of economic activity in 2007-2008, and is touted as the economic powerhouse of Sydney. Furthermore, the Smithfield-Wetherill Park Industrial Estate is the largest industrial estate in the Southern Hemisphere and the hub of manufacturing and distribution in greater western Sydney. It is at the geographic centre of Sydney's major industrial zones. More than 1,000 manufacturing, wholesale, transport and service firms employ more than 20,000 people within my local community. These factors make Smithfield-Wetherill Park a strategic location for industrial services and the manufacture and distribution of a wide range of industrial equipment, food, building and consumer products. In the next few years, population growth within Smithfield is set to thrive at a rate nearly twice as fast as the State average.

Such growth will spark an increasing demand for products provided by local businesses. Therefore, by locating their operations in Smithfield businesses will be able to capitalise on this opportunity that will benefit the local economy, the consumer and the business. I am pleased to say that the New South Wales Labor Government has embraced these new opportunities. Recently the State Labor Government committed to building the \$80 million Erskine Park Link Road, which will improve traffic flows within our local area. Construction is set to commence in early January 2011. This Government also recently announced the rezoning of 826 hectares of employment land within the Western Sydney Employment Hub, unlocking the potential for 16,500 jobs.

It is that type of investment by the State Labor Government that supports and attracts businesses to my electorate of Smithfield. A recent example of this policy involves the decision of Bondor, one of Australia's leaders in complete thermal building solutions and lightweight architectural panels, to invest \$11 million to construct a state-of-the-art plant in Wetherill Park. This project alone has created an additional 30 jobs, not to mention indirect employment offered by other businesses that will benefit from the presence of Bondor being located in my electorate.

Business viability is a high priority of mine. Businesses contribute to the local economy and by doing so provide jobs to local families. It is the provision of employment that underpins our economy. I commend the chamber's general manager, Narelle Stoker, the president, Renzo Valleri, and committee members Robert Waddell, Peter Simonis, Dr Ingrid Schraner, Kevin McCaffrey, Malcolm Irvine, Victor Prasad, Sue McAvoy, Brian Mulvey and Joe Vigilione for all their hard work in organising the expo. Furthermore, I take this opportunity to thank Fairfield and Holroyd councils, the University of Western Sydney and TAFE New South Wales for their support in making the expo a success. Judging by the number of people who attended, I imagine that the expo will be a trend that continues for years to come.

BOWRAL AND DISTRICT HOSPITAL

Ms PRU GOWARD (Goulburn) [8.11 p.m.]: In the Goulburn electorate we are fortunate to have two public hospitals, one of which is located in Bowral and the other in the city of Goulburn. The hospitals both

serve large and growing populations and draw patients both locally and from the surrounding areas. Health care in Australia is not a privilege; it is the right of each and every resident. Wherever possible, health care should be offered locally, especially when a hospital is equipped with talented specialists, excellent nursing staff and fully equipped, if a little small, operating theatres.

Southern Highlands residents who require orthopaedic surgery should be delighted and happy in the knowledge that their knee or hip joints can be replaced locally by highly qualified surgeons and anaesthetists, ably assisted by theatre staff who are comparable to none and in a hospital with an enviably low infection rate. Unfortunately the residents of the Southern Highlands are not delighted. On the contrary, they are so disappointed by the latest dictate that has been delivered from the hallowed corridors of the Minister for Health that last week well over 500 residents gathered out the Bowral Public Hospital to protest. The protest was well organised by Nick Illek and his Health Action Southern Highlands committee, and well supported by local radio and media host, Graham Day, and the *Southern Highland News*.

We were all disappointed that, despite an invitation being extended to the Minister, neither she nor a representative from the Sydney South West Area Health Service believed our concerns and questions were sufficiently important to address or answer. I certainly would have asked the Minister to explain the reasoning behind the following: I have already stated that specialists, medical staff and operating facilities are available, but I want to emphasise that not only are they available but they are being under utilised. The recent dictate from the area health service has placed a cap on the number of orthopaedic operations performed at Bowral Public Hospital. The two orthopaedic surgeons, Dr Andrew Leicester and Dr Nick Hartnell, are now able to perform only one orthopaedic operation a week each. That represents a 50 per cent reduction in the number of surgical procedures. For the sake of emphasis, I repeat that that is a 50 per cent reduction.

If a procedure is scheduled for the morning, there is every chance it will be completed by 11 o'clock. The operating theatre and the staff, including the anaesthetist—who are all paid for the day—have no further procedures scheduled for that day. Rather than using their time and the valuable operating theatre facility by performing an additional one or two orthopaedic operations, the Minister or her Health authority would rather that they shut up shop for the day. As a result, local patients, some of whom are in their eighties and others of whom are in a wheelchair, are being told they can have their orthopaedic operation performed much more quickly if they agree to be sent to Royal Prince Alfred or Concord hospitals. But why would they want to do that when we have a perfectly good service locally?

Why would the service rather spend approximately \$1,000 to transport a patient to and from Sydney for an initial consultation, and then do that again for the operation, when the patient could far more easily attend the Bowral hospital and, in the view of the surgeons, have treatment more cheaply? In a letter to the *Southern Highland News* today, the general manager of the Bowral Public Hospital, Denis Thomas, said:

To ensure patients receive their surgery within clinically appropriate time frames it is sometimes necessary for the hospital to refer patients to other networked hospitals for care.

I must say that I do not envy him his job of having to defend the indefensible administrative nightmare he has been thrown into, but he is certainly making a valiant effort to defend it. How does it make sense to geographically transfer patients to an alternative hospital that is located more than 100 kilometres away, with all the associated costs to them, their family and friends, and the health service, and arguably higher infection rates, while claiming that it is because it is in the same area health service and it should not matter? Why not simply transfer the funds within the health service to enable Bowral hospital to take on a full complement of patients and perform the number of orthopaedic operations it is more than capable of doing? It is absolutely not a case of caring whether the patients get their operation within a certain period, and it is a bit late in the day for the New South Wales Labor Government to be staking its claim in this regard. So what is the reason?

My colleague the Deputy Leader of the Opposition and member for North Shore took time out from her busy day to attend the rally and front up to the crowd at very short notice. We were thrilled that she was there. Clearly, she understands the anger felt by people who can see their previous public hospital being eroded before their very eyes. I understand that she feels that this is the general picture throughout the State. It is such a pity the Minister was not able to attend or show the same consideration. Our questions are not difficult, but try as we may, the Minister refuses to give us answers.

TRIBUTE TO THE HONOURABLE JEFFREY WILLIAM SHAW, QC

Mr NATHAN REES (Toongabbie) [8.16 p.m.]: This evening I wish to pay my tribute to the Hon. Jeff Shaw, QC, a former Attorney General of New South Wales, a man with an absolutely extraordinary record of

reform, a man of great integrity and great decency and, most overwhelmingly perhaps, a man of great intellect. Jeff's career has been well documented, particularly in recent days, but there are a couple of elements to which I believe attention should be drawn, in particular.

The New South Wales Labor Party was lucky to have had Jeff Shaw, and the people of New South Wales were lucky to have had Jeff Shaw. He brought humility to one of the State's highest offices, the position of Attorney General—the State's first legal officer. The Attorney General, the Treasurer and the Premier are the only three people in Cabinet to see every Cabinet minute that is prepared by Ministers. I submit that the first legal officer of a State is more important than the Treasurer. Both see all the minutes but, unlike a Treasurer who deals with matters year in and year out, the first legal officer has the opportunity to craft the society in which we live, the society we want, and the way we characterise ourselves, not just for a year as a Treasurer may, but for an era. That is why people in those positions are so special.

Jeff was a bulwark against tabloid tendencies of his time. There is an ongoing tension between Premiers and Premiers' offices of the day and the role of Attorneys General. On every occasion Jeff was unfailing in his resolution to not deviate from the proper course. Ultimately Jeff was motivated by his concerns for everyday Australians. I will deal with that in a little more detail in a moment. I know that his three proudest achievements were in the industrial relations architecture that he put in place in New South Wales, which ultimately was replicated in other jurisdictions, his work with asbestosis and mesothelioma victims, and the anti-discrimination sphere. They were the three areas in which Jeff carved out his reputation. They were also the three areas that best embodied his passion for the Labor cause.

The great thing about Jeff was his intellect. Time and time again I saw Jeff in action. The first time was more than a decade ago in the aftermath of the Drug Summit in May 1999, if my memory serves me correctly. A special subcommittee of Cabinet was formed to deal with the implementation of recommendations that had been accepted arising from the Drug Summit. On a number of occasions I watched Jeff. He would not have been the first Minister to arrive at a Cabinet meeting or a Cabinet subcommittee meeting not having had time to read his documents. He would arrive with his folder under his arm. He would sit down. On a number of occasions I was sitting next to him because I was a staffer at the time. He would open the folder, and the agenda item would be Jeff's to pursue. He would begin speaking to the minute, and instantly he commanded everyone's attention.

As he was speaking to the minute he would go through it page after page, making corrections to different elements and adding items he wanted to raise on each point in a document that he probably first saw when he opened the folder. Many of us have tried to do that, but not many of us are able to do it as successfully as Jeff. Jeff was an extraordinary intellect who brought a reformist zeal to the role that too often people shirk. The model he set for reformism for his fundamental commitment to protection of workers and their families was a model for his successors in Bob Debus and now John Hatzistergos. New South Wales has been extraordinarily well served by Attorneys General over the years.

But I say this: In modern-day politics it is easy to succumb to the myth that there is not a lot of difference between our respective parties. It is easy to succumb to the notion that the major parties do not have fundamental differences. We do. The difference between Labor and the Liberals, The Nationals or whoever it might be, depending on the jurisdiction, is that we have a fundamental belief in the sanctity of industrial relations and redressing the power imbalance that occurs in workplaces. That is what drove Jeff. I had the pleasure of working closely with him at different times. I would not call myself a friend, but I am delighted to put on record my regard for his contributions over the years. He was an extraordinary gentleman who made an extraordinary contribution to New South Wales. Vale, Jeff Shaw.

The DEPUTY-SPEAKER: I concur with the words of the member for Toongabbie. There was no-one more bright or more real than Jeff Shaw.

RED CROSS

Mr GREG APLIN (Albury) [8.21 p.m.]: On Monday 10 May more than 80 members of the Australian Red Cross met in the Henty Community Centre to participate in the Country Zone 20 annual conference and to celebrate the seventy-fifth anniversary of the formation of the Henty Branch. The Henty Branch President, Alison Schuster, welcomed delegates representing the zone's 12 branches: Alma Park, Brocklesby, Bungowannah, Burrumbuttock, Culcairn, Henty, Holbrook, Jindera, Mundawadra, Table Top, Walbundrie and

Walla Walla. Students from Henty Public School provided a musical introduction to the morning events, and then it was my honour to officially open the conference, to recognise it was being held during National Volunteer Week and to congratulate the members of this much respected and world-renowned charity.

It is said that the Red Cross is always there for people in need, providing relief in times of crisis and care for the most vulnerable in Australia and around the world. That perception is currently being sorely tested in the border region by the puzzling decision of the Australian Red Cross to close its existing regional office in Albury at the end of this month and to seek new premises in Wagga Wagga for the purpose of opening a new office with new staff. This decision has caused great consternation and was the subject of much discussion at the conference. Indeed, Jindera branch president and former zone representative Elizabeth Healey said the decision did not make sense; she was critical of the lack of consultation and concerned about the impact on the region.

The mayor of Greater Hume Shire Council, Councillor Denise Osborne, noted that the regional office had also effectively served as a link to north-east Victoria and had delivered enormous support in the wake of the Black Saturday bushfires in Victoria. More recently the regional office played a significant role in coordinating the Red Cross personal support team responses to the Tooma-Ournie bushfire, the Walla Walla-Gerogery bushfire and the Ladysmith floods. These activities, of course, are in addition to the regular programs that have until now included a first aid training division and youth programs such as Talk Out Loud, Y Challenge and breakfast clubs. Many programs such as Telecross and Hands On will continue to be delivered but the Red Cross first aid unit was closed last year.

At the conference zone representative Anne Knox paid a special tribute to the Regional Manager, David Clark, recognising his tireless work for the charity and his countless hours manning the office after hours in times of emergency. On a personal note, I first recall working with David at a major Red Cross fundraising event in the wake of the 2004 tsunami, and I endorse the praise for him and his team over the past six years. The Murray-Riverina Regional Centre was established in Albury in May 1982—the first time two State divisions of Victoria and New South Wales had joined forces to provide services to a community. This joint project lasted about eight years until it was taken back by New South Wales and renamed the Upper Murray Region. It moved to its current location in April 1992.

In the 1980s new services were provided by the Red Cross: the loan of baby equipment, baby sitting courses, cosmetic care, medical equipment loans, libraries in hospitals, hospital visiting, and assisting with Blood Bank and immunisations. In 1990 Telecross commenced and expanded to other towns around the region. The country branches continue to raise funds and provide valuable services in their own communities. Culcairn branch members knit trauma teddies, beanies and baby blankets for Calvary Hospital in Wagga Wagga, and they raise funds through a variety of craft and goods stalls throughout the year. The Bungowannah branch catered for a two-day bull disposal sale and raised \$3,000. It celebrated its seventieth anniversary in December, with three of its foundation members present: Nancy Jervois, Beau Lavis and her sister, Gladwyn Crawford.

The Henty Branch was formed in June 1935. The focus at that time was on financial assistance for the nursing homes housing tuberculosis victims and on helping returned soldiers from the first war and their families who had fallen on hard times. In the annual meeting in July 1939 the rumblings of war were being felt and members and friends of the society were urged to be prepared to assist in the "time of national emergency". First aid and home nursing courses were provided to enable women to become mobile voluntary aid detachments.

In September that year eight pounds of wool were handed to members to knit socks. At their monthly meetings they packed up parcels of pyjamas, shirts, socks, mufflers, cardigans, et cetera to be sent overseas to the soldiers. The local Red Cross ladies collected £4,000 and the Henty district subscribed £62,000 to the war loans. Since those war years the Henty Red Cross branch has diversified and advanced, providing a medical loans service to the Henty community from 1948 and in that same year calling on the community, for the first time, to give blood at the Blood Bank. In 1964 at the jubilee annual conference the New South Wales Chairman, Mr. J. F. Clark, said:

The Red Cross asks for two of our most valued possessions, namely our money and our blood.

These modern-day good Samaritans busied themselves in this quest for money and blood through craft stalls, raffles, catering for funerals, providing morning teas for businesses, and volunteering countless hours doing hospital visits, meals on wheels and providing biscuits for blood donors. I thank the wonderful members and volunteers of the Red Cross in the Albury electorate. I urge the administration to maintain a strong and effective presence in the Albury-Wodonga region.

GLENDALE INTERCHANGE

Ms SONIA HORNER (Wallsend) [8.26 p.m.]: What Hunter saga is becoming bigger than *Ben Hur*? This project has been on the table in various guises for the past 15 years. It is a project that has been the central topic of many a discussion and many a meeting. Put simply, Glendale needs a bus, rail and road interchange. It grieves me to say that a century ago the good people of Glendale had better access to public transport via train to get to the city and to Sydney than our counterparts do now. Indeed, Hunter citizens could get to Sydney much quicker by train in 1922 than we can now. As I have said before in this House, the people of the Wallsend electorate are a stoic bunch. We understand adversity and the need for patience as issues are worked through. But we also understand when we are not being listened to, when we are being taken for granted, when we are being ignored and when we have had enough.

The Crossroads, Glendale, is the geographic centre of the lower Hunter. It is called the Crossroads for a good reason: it is the link between Lake Macquarie, the lower Hunter and Newcastle. It is in the west of the Wallsend electorate and 15 kilometres to the west of the Newcastle central business district, with easy access to the F3. It is two hours drive north of Sydney and located adjacent to the main northern railway line. This railway line divides Cardiff and Glendale. On one side of the track is the Cardiff Industrial Estate, which is the single biggest employment hub in the Hunter, with more than 16,000 workers. It is on the record that successful businesses have relocated from Glendale due to the lack of progress with the interchange. How scandalous that jobs are going elsewhere!

On the other side of the track is the huge business and shopping precinct of Stockland Glendale, which is another success story despite constraints placed on it by a lack of government action. This thriving shopping precinct contains 84 retail shops, including major players Coles, Target, Kmart, Woolworths and Aldi. Approximately 4.5 million vehicles enter the site each year. Of the people who visit the site, 96 per cent travel by car and only 4 per cent use public transport, which in this case is the bus, despite the fact the site sits neatly on the northern railway line. We need to improve public transport to Glendale, thus reinforcing the Labor philosophy of better public transport services in New South Wales. There are 2,338 car parking spaces to deal with this volume of traffic, which is a testament to its popularity and growth. The figures speak for themselves. At present there is only one road in, and one road out of the site. This slows down development and dramatically slows the flow of traffic. Gridlock is a major problem.

Construction of the interchange would create 549 direct jobs, 1,260 indirect jobs and inject more than \$300 million into the Hunter region, and that is just the beginning. No wonder the mood in the Hunter for the Glendale interchange is so positive. There is no talk in this part of town about the interchange dividing the community, or about what should stay and what should go. There is nothing controversial about this plan. There is not a single dissenting voice—not the business community, the union movement or the local council and certainly not the residents of Glendale, who understand how important it is to their future and the future of their children. This is not some dead-end joint where people squabble over past glories and an uncertain future. This is the future and they want the Glendale Road rail interchange now. Fifteen years of waiting is long enough, even for the most patient of souls.

RYDE PEDESTRIAN CROSSING

Mr VICTOR DOMINELLO (Ryde) [8.31 p.m.]: I refer to the removal of the pedestrian crossing at the intersection of Devlin Street and Blaxland Road, Ryde. The at-grade crossing was removed in December 2009, as part of an agreement between Ryde City Council and the property developers of Top Ryde Shopping Centre to provide better access to the new centre prior to this. A temporary alternative route along the north side of Blaxland Road was established. A footbridge was opened in October 2009 to provide easy access to the shopping centre for pedestrians crossing this busy stretch of Devlin Street-Lane Cove Road. Accessing the footbridge requires an ascent of 55 steps. Alternatively, pedestrians can use the lifts, which are very narrow and uninviting. Of most concern is the number of times the lifts have broken down. According to a council report, in December 2009, 15 breakdowns were reported.

Many local residents are outraged at what they see as discrimination against the frail, elderly and people with disabilities who are left with no alternative but to use the faulty lifts. The area is not well lit and there is graffiti and etching inside the lifts and in the surrounding area. People feel unsafe using the lifts and footbridge at night. I have been inundated with stories from people who have found themselves stuck in the lifts on the many occasions they have failed. I recently heard of a gentleman and his children being stuck in the lift when schoolchildren played a prank by repeatedly pushing the lift buttons at ground level thereby causing it to stop midstream.

There has been a groundswell of action by local residents pleading for the at-grade pedestrian crossing to be reinstated. I will provide a quick summary. After months of angry letters to council and to the local papers about constant lift failures, a local rally was organised on 14 April by local resident, Denise Pendleton. Some 45 people attended and the story was covered in the local papers. On 19 April, coordinator of the opportunity shop on Church Street, near the crossing, Miss Rosemary Costar hand delivered a petition to my office calling for the reopening of the pedestrian crossing. The petition contained more than 150 signatures. The latest development was that a motion was presented to Ryde council on 27 April 2010 by Councillor Bill Pickering calling on Ryde council engineers to work with the Roads and Traffic Authority and Top Ryde owner, Beville Group, to devise an appropriate solution to the current access problems.

In their response to my representations in March 2010, I was given assurances by both the Minister for Transport and Ryde council that the developers were undertaking maintenance to ensure the problems were fixed. Despite that, there have been at least 10 further reported breakdowns of the lifts. In his response the Minister for Transport cited plans for the construction of a second footbridge as a possible solution to the current problems. The second northern footbridge is due to be opened in August 2010. This is not a solution; in fact, it will only add to the current problems. As part of Top Ryde's construction the Roads and Traffic Authority required the removal of the pedestrian crossing and approved its replacement with a structure with two essential features: to maximise the direction of all pedestrian traffic through the top level of the shopping centre, not yet completed, and to maximise advertising potential for the structure, hence the construction of the footbridge later this year.

Features of functionality for pedestrians were not part of the requirements, including reliable access, the needs of people with disability and other mobility restrictions and night-time safety. Local residents are understandably angry about the piecemeal solutions offered by the transport Minister and the Roads and Traffic Authority. Apparently the Roads and Traffic Authority will not consider reinstating the at-grade crossing on Devlin Street, because removing pedestrians saves motorists approximately 11 seconds in traffic light stopping time. How many more pedestrian crossings does the Roads and Transport Authority plan to remove along Lane Cove Road to give motorists an extra 11 seconds? How many more frail and elderly people does the Roads and Traffic Authority intend to force into faulty lifts and onto poorly lit footbridges? Saving motorists' time can never be an acceptable justification to discriminate against people in this way.

After all this, what do local residents want? Quite simply, they want their pedestrian crossing back. They want to be able to access their local shopping centre in the same way they always have. I call on the transport Minister to show compassion, to cut the blame shifting between Ryde council, the Beville Group and the Roads and Traffic Authority, and order that the Devlin Street pedestrian crossing be returned. This will return the right of people to access their local shopping facilities safely and reliably, the way they always have.

VIETNAMESE COMMUNITY IN AUSTRALIA

Mr NICK LALICH (Cabramatta) [8.35 p.m.]: I refer to an event that I had the pleasure of attending on 30 April in Hyde Park, Sydney—a fantastic event that meant a great deal to many of my constituents in Cabramatta. Some 12 months ago the Vietnamese Community in Australia, New South Wales Chapter, which is the peak body of the Vietnamese community, organised a number of activities to mark the thirty-fifth anniversary of the Vietnamese community's arrival in Australia, and to thank the Australian and New South Wales governments and people for having created opportunities for Vietnamese refugees to re-settle and rebuild their lives within this free, democratic country.

One of the key events of the anniversary was a vigil held on 30 April in Hyde Park. The vigil was held to commemorate the fall of Saigon and to remember the Australian and Vietnamese service men and women who sacrificed their lives in the Vietnam War, and Vietnamese refugees who lost their lives during their flight and journey in search of freedom. I had the honour of being an invited guest at the vigil. It was a moving experience, with some 2,000 people in attendance. I was so proud to see such a large number of people from my electorate of Cabramatta and also members of the wider community from across New South Wales.

I acknowledge and congratulate some community members on their contribution to this event: Mr Thanh Nguyen, President of the Vietnamese Community in Australia, New South Wales Chapter; former President of the Vietnamese Community in Australia, New South Wales Chapter, Mr Tri Vo; and my State and Federal colleagues who attended and paid respects to the occasion. One point I note is that my office and I have received numerous calls from the Vietnamese community in Cabramatta and Vietnamese Community in Australia members about the blatant disrespect and disregard for this important event shown by the New South

Wales Liberal Party and its so-called Community Relations Officer, Ms Dai Le—who, on the same night, organised and held a separate event in this place. I understand she has described that event as a success on Twitter and Facebook to her Liberal buddies, which has insulted many members of the Vietnamese community.

The community of which she still holds some forlorn hope of representing one day took that insult poorly. Not only was it a blatant political stunt to hold an event on the same day and time as the Vietnamese Community in Australia vigil it was indeed a despicable, disrespectful act on her part. Unlike many of the constituents, community members and organisations in Cabramatta that took the time to be a part of the Vietnamese Community in Australia's vigil, it continues to highlight how out of touch the Liberal Party is with the cultures, respects and traditions of my community and the electorate of Cabramatta that I am so honoured to represent.

Again I congratulate the organisers and everyone who came together to commemorate and honour Australian and Vietnamese service men and women who sacrificed their lives in the Vietnam War; everyone who showed dignity and respect in attending the vigil at Hyde Park. I also thank the Vietnamese Community in Australia, New South Wales Chapter, and I look forward to a long association and working relationship with them.

WALCHA ART

Mr RICHARD TORBAY (Northern Tablelands—Speaker) [8.40 p.m.]: Every now and then a group of like-minded people with vitality, initiative and similar ideas happen to be at the same place at the same time and produce spectacular results. This occurred in 1996 in Walcha, a small town in my Northern Tablelands electorate with a population of just over 3,200. It began when local farmer and sculptor Stephen King presented Walcha Council with a plan to build a fountain sculpture *Weather Signs* for McHatton Park in the centre of town. This led to the concept of an ongoing public art program and to facilitate it the Walcha Arts Council was formed. The arts council worked with Walcha Council on a strategy and by 1998 that strategy was incorporated into the 1998 Management Plan as the Open Air Gallery.

Walcha is fortunate in that it has several professional practising artists living in the region. They all exhibit in metropolitan galleries but live in the country, some combining their art with farming. Locally based children's book author, John Heffernan, headed up the new Walcha Arts Council, which included well-established artists Stephen King, Julia Griffin, Ross Laurie, Angus Nivison, Miffy Gullifer and James Rogers. John describes them as a miraculous group with drive and planning capacity and also well organised. Working closely with Walcha Council and the local community and with very little money, over the past 14 years they have transformed the Walcha streetscape with sculptures and mosaics, hand-made street furniture and sculpted awning posts.

One of the most striking and distinctive works is James Rogers' inspiring steel sculpture *Song Cycle*, which has transformed the roundabout at the southern approach to the town. Sculptures now mark the four entrances to Walcha and in 2003 Walcha Council employed architect Ian Brammer to create a new streetscape design. He quickly recognised that council should continue to incorporate art into all aspects of the streetscape, whether it be pavements, street furniture, lighting, signs, bridges, rock walls or awning posts. In 2003 well-known art critic and former Curator of Australian Art at the Australian National Gallery, John McDonald, gave the town's reputation as an art centre a further boost. He curated an exhibition, "Walcha—City of Art" at his NewContemporaries gallery in the Queen Victoria Building, Sydney. The exhibition included works by five Walcha artists and photographs by Beryl Feron of 24 of Walcha's sculptures. It made quite an impact. In an essay written for the catalogue, John McDonald said Walcha had:

... found a way of signposting its vitality. For a modest investment of ratepayers' funds the Council has given the town a special place on Australia's cultural map. This has come about with the assistance of artists and supporters who have donated a great deal of time and experience to create this unique facility. It is an example of many individuals working together for the good of a community in which they share strong family and sentimental ties.

Many of the sculptures were created in intensive workshop projects under the supervision of Stephen King and Julia Griffin, funded by Walcha Council and overseen and organised by the Walcha Arts Council. The group also sought out international and interstate artists, whose work is now scattered around the town, through its association with Sydney's Sculpture by the Sea. Walcha Arts Council members emphasise that its strength is that it still retains the same small group of people who started it in 1996. They have held to a single vision, strongly believing that the key to their success has been retaining their vision, ensuring quality control and overseeing every project until completion of the full installation.

Quite recently a new art gallery featuring the work of local artists has opened in the town's main street. I have been there on a number of occasions; it is an outstanding facility. The community and successive councils under three different mayors have been supportive of the initiatives but the project has depended largely on the artists' generosity and a small budget from Walcha Council. I would like the Minister for the Arts to visit Walcha to see for herself what is being achieved and to offer funding assistance to enable these enterprising artists to hold workshops, forums and interchanges with other country town communities to support local artists and extend this initiative throughout the regional areas of New South Wales.

Dr ANDREW McDONALD (Macquarie Fields—Parliamentary Secretary) [8.45 p.m.]: I thank the member for Northern Tablelands for his statement. As a former resident of New England, Madam Deputy-Speaker, you would appreciate such a wonderful initiative. I will pass on the invitation from the member for Northern Tablelands to the Minister for the Arts. The Minister visited the Northern Tablelands electorate in May last year to launch the New England Regional Art Museum Foundation, where she announced a New South Wales Government investment of \$10,000 in education and audience development. I am advised by the Minister that \$10,800 was allocated to 11 Northern Tablelands based organisations to help fund a wide range of programs under the 2010 Country Arts Support Program—part of \$245,000 in grants distributed in rural and regional areas in March this year.

An additional \$2.1 million has been provided specifically in support of regional conservatoriums. Many of the State's most exciting arts projects are occurring in our regional and rural areas, where artists have the space and freedom to explore and innovate. Last December, Minister Judge announced more than \$4 million in grants for arts and cultural organisations in regional and rural New South Wales under the 2010 Arts Funding Program. I know that Minister Judge is very committed to ensuring that people living in rural and regional areas have access to first-class art and cultural activities and that local artists and creative enterprises receive an appropriate level of support. Applications for the 2011 round of funding are now open and I urge people to visit the website—www.arts.nsw.gov.au—to get more information on how to apply for a grant. I thank the member for Northern Tablelands for his statement. It certainly sounds like Walcha has experienced a wonderful rejuvenation and I congratulate those concerned on their wonderful achievement.

ELECTRICITY PRICE RISES

Mrs DAWN FARDELL (Dubbo) [8.47 p.m.]: I express my dismay at the stress and fear that the Government's unrealistic proposed electricity price hike has already caused to the elderly, the sick and the battlers across regional New South Wales. Once again country people are expected to shoulder the biggest price rise—42 per cent over three years for Country Energy customers, compared with 20 per cent for Integral Energy customers and 36 per cent for EnergyAustralia customers. Any Government that expects pensioners on fixed incomes to come up with an extra 42 per cent over three years for the essential service of electricity, clearly has no understanding of how the constituents it supposedly represents are struggling to survive financially.

Similarly, how does the Government expect farmers, who have yet to recover from prolonged years of drought, to suddenly find an extra \$10,000 or so to meet their annual electricity bills? Will the Government explain to the volunteer art and crafts group at Forbes where it will find an extra \$2,000 a year to keep open its community facilities? The price rise will have an impact on local councils. Dubbo City Council alone will have to find an extra \$1 million a year to meet its power bill. Grant Clifton, the proprietor of the Vandenberg Hotel in Forbes, has drawn attention to this serious problem. Every Thursday night he turns off the lights at the hotel, and patrons bring their own lamps. He is hoping that his campaign spreads to other hotels throughout the State. I met with Mr Clifton recently and was enormously impressed by his commitment to raising awareness of the looming price hike. Mr Clifton's campaign is sending a very powerful message to the Government, because quite literally it could be lights out for small business right across regional New South Wales if electricity prices soar at those rates.

Struggling families and small businesses will be sluggish not only with the Government's power hike, but by increases to cover the spiralling costs of running sporting ovals, swimming pools, street lighting and community and cultural facilities. I note the Premier has advised that families and pensioners in an emergency or financial crisis can access up to \$480 a year in energy vouchers to help pay the bills, but what does this really mean? If 1,000 pensioners in my electorate cannot pay their bill, will the Government provide \$480,000 in vouchers so they can make their payments?

Will that be extended across the State—and at what final cost? Why go down that route? Why not stop the ludicrous hike in prices so vouchers are not necessary, not to mention the cost of administering such a

system. Much is also being made of the fact that electricity prices will not rise by up to 64 per cent in my area, as first mooted, but by only a mere 42 per cent. Is it only the Government that sees this as something to crow about, as if Christmas has come early? Let me make it clear: If the lunch special is reduced from \$15 to \$10, but you have only \$5 in your pocket, you still go hungry. Lest the Government thinks there is only a small pocket of resistance to this appalling price hike, I advise that today I lodged a petition seeking some relief from this impost that more than 5,000 people have signed in the past month.

The petitions keep coming in each day from places within and beyond the electorate of Dubbo. They come from Bourke, Canowindra, Cobar, Condobolin, Coolah, Corowa, Dorrigo, Dubbo, Eugowra, Eumungerie, Forbes, Gulgong, Hermitdale, Narrabri, Narromine, Nyngan, Parkes, Peak Hill, Trangie, Trundle, Tullamore, Wanaaring and Wellington—I sound like Lucky Star! That is not an exhaustive list, just a list of exhausted areas that are tired of battling this unfair burden. The *Daily Telegraph* has advised that more than 11,000 people have signed its online petition. It is appropriate that I thank the many inspirational people who have taken it upon themselves to distribute and collect the petitions. Ken and Elaine Russell of Dubbo have collected thousands of signatures, so committed are they to undoing this injustice. I quote from a letter from one constituent who said:

I was on a payment plan of \$85 a fortnight when I received two letters from Country Energy stating my payment has now risen to \$147 a fortnight in order to cover the yearly costs—which incidentally have only risen due to the 20 percent increase last year, not from increased usage.

I naturally rang Country Energy to discuss the matter and was not only told the lowest they could go was \$143, but also that there would be further increases in electricity costs in June this year.

Like many people in my situation I am on a fixed income trying to keep up with rising grocery prices, let alone power bills. If these increases continue there will only be further demands on charitable organizations which are already stretched thin, and further pressure on Government welfare systems.

To quote from another constituent in regard to the "availability charge", which is charged at every billing cycle:

This additional charge, or tax if you will, amounted to nearly 25 per cent of my last electricity account.

Currently, as a means to make life easier when the bills come in, I am paying up to \$50 per pension day to Energy Australia in order to offset the larger bill when it arrives.

Apart from the terrible burden this price hike will place on country families and businesses, plus the overall inflationary effect, I am just waiting for the pro-privatisation proponents to start trumpeting the line that privatisation will lead to greater savings for consumers. Communities in the electorate of Dubbo will not cop any moves to privatise publicly owned assets under the guise of a silver bullet for rising costs. My message to the Government is that if it needs to cover the increased network charges and electricity infrastructure costs then it can dip into the considerable funds generated by these publicly owned electricity assets and not into the pockets of everyday country people and businesses who are already doing it tough. The \$800 million of assistance over the next five years that the Government has earmarked to help people cope with the price increase would be much better invested in the State's electricity system, provided of course, the Government plans to keep this major asset.

Private members' statements concluded.

The House adjourned, pursuant to resolution, at 8.52 p.m. until Thursday 13 May 2010 at 10.00 a.m.
