

LEGISLATIVE ASSEMBLY

Wednesday 24 November 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.

INDUSTRIAL RELATIONS AMENDMENT (NON-OPERATIVE AWARDS) BILL 2010

ROADS AMENDMENT (PRIVATE RAILWAYS) BILL 2010

Messages received from the Legislative Council returning the bills without amendment.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to section 63C of the Public Finance and Audit Act 1983, of the Auditor-General's Report for 2010, Volume Seven.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

PARLIAMENTARY ELECTORATES AND ELECTIONS FURTHER AMENDMENT BILL 2010

Bill introduced on motion by Mr John Aquilina, on behalf of Ms Kristina Keneally.

Agreement in Principle

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [10.05 a.m.]: I move:

That this bill be now agreed to in principle.

Many people in New South Wales who are blind or vision impaired currently do not have the opportunity to cast a secret vote at a State election. They have no choice but to enlist the help of another person to fill out their ballot paper and place it in the ballot box. By amending the Parliamentary Electorates and Elections Act, this bill will allow these vision-impaired electors to vote in secret, using a computer or telephone at a private location such as their home. As a result, these voters will gain new levels of independence and empowerment as participants in our democratic processes.

This new technology-assisted voting system for New South Wales is called iVote. iVote is an Australian first. The Government is pioneering the use of new communications technology to make elections more democratic and accessible. This bill provides for the iVote system to be in place for the State general election in March next year. iVote will not only assist vision-impaired electors; others may use iVote next year, and that includes electors with other disabilities or who live in remote parts of the State. Once the performance of iVote has been reviewed after the 2011 election, there is the possibility it will be made available to even more electors, including those who are interstate or overseas and unable to easily attend a polling place.

The introduction of the iVote system under this bill follows an investigation into the feasibility of technology-assisted voting by the Electoral Commissioner, recommended in the report on the 2007 State general election by the Joint Standing Committee on Electoral Matters. The Electoral Commissioner's iVote report was tabled in Parliament in September this year. In preparing the iVote report, the Electoral Commissioner canvassed organisations representing people who are vision-impaired or have other disabilities. The Electoral Commissioner's investigation initially had concentrated on using personal computers connected to the internet

for iVoting. An important message from the blind and vision-impaired community is that members strongly prefer a telephone-based system to register their secret ballot. This led to a broadening of the design of the iVote system during the feasibility study.

However, the iVote report also found that the online voting option is preferred by a majority of electors with other disabilities or who are geographically isolated. As a consequence, the Electoral Commissioner recommends that both online and telephone voting be supported in the iVote system for the 2011 State general election. In the iVote report, the Electoral Commissioner estimated that if iVoting were adopted for the coming election, around 10,000 electors would vote using the system. Of these 10,000 people, approximately 70 per cent would be vision-impaired electors and 25 per cent would be expected to be people with other disabilities. Approximately 5 per cent would be able-bodied people living in remote parts of New South Wales. To ensure that the iVote system could cope with this level of demand, the Electoral Commissioner recommends that the design capacity of the iVote system for the 2011 election would be for 15,000 electors.

The Government has carefully considered the findings of the iVote report. We are pleased to support its recommendations, and have allocated resources to implement technology-assisted voting by telephone and internet for the coming election. As well as providing for the establishment of iVoting at New South Wales elections, the bill will make a number of amendments to clarify certain administrative processes under the Act that have been requested by the Electoral Commissioner. The bill will also amend the Government Information (Public Access) Act to protect sensitive information kept for administration of elections, including software programs and codes for the iVote system. Each of the elements of the bill is addressed in a separate schedule, beginning with technology assisted voting at schedule 1. Schedule 1 of the bill will add a new division to the Act that provides for technology assisted voting, which will be known to electors as iVoting. The Electoral Commissioner is granted powers to approve procedures to enable eligible electors to use the iVote system.

The Electoral Commissioner may determine an eligible elector from a number of categories of voters. The first category is a person whose vision impairment, physical incapacity or low level of literacy prevents them from otherwise voting without assistance. The next category is a person with a disability within the meaning of the Anti-Discrimination Act 1977 and who, because of the disability, has difficulty voting at a polling place or is unable to vote without assistance. Voters eligible under this category may include people with disabilities concerning physical control or fine motor skills, sensory impairment such as deafness or inability to speak, and intellectual or social skills impairment that may make it difficult to interact with polling place staff.

The third category is a person who lives in a remote location in New South Wales and has greater difficulty in attending a polling booth. To qualify for consideration as an eligible elector, the elector's residence must be 20 kilometres or more from a polling place. This category has been included to provide a benefit to voters in rural and remote locations. However, it will also provide a valuable insight into how well iVoting works in the wider community, which will provide useful information when consideration is given to expanding its availability in the future.

It is important to note that an elector from any of the categories I have just outlined will not have an automatic right to use iVoting. The Electoral Commissioner must approve each class of eligible electors from amongst the categories. Furthermore, a class of electors from any of the categories may be excluded from technology assisted voting by regulation. This is to provide the flexibility to ensure that access to the iVote system is provided in a way that is equitable and efficient. In anticipation of a wider rollout of iVoting, a fourth category of eligible electors has been included in the bill, that is, voters who are interstate or overseas at the time of an election. However, it is appropriate that the implementation of the iVote system is staged, and this provision for electors outside the State will not commence until March 2012 and the category will require a regulation to become operative.

A report by the Electoral Commissioner after the 2011 election into the performance of the iVote system will inform any future decision on iVoting for people outside New South Wales. This report is required under the provisions of the bill. Technology assisted voting requires the operation of a complex information technology platform by, or on behalf of, the Electoral Commission as part of the crucial function of conducting elections for the New South Wales Parliament. Accordingly, the Electoral Commissioner requires a degree of flexibility in determining and approving procedures for iVoting. However, constitutional integrity of the electoral system requires that any such flexibility is limited by reference in the bill to principles of accuracy, accountability and transparency.

The bill will provide that procedures approved by the Electoral Commissioner must include provisions for iVoter registration, a record of an iVote having been made, secrecy of the iVote and production of the iVote

ballot paper for counting with other votes. Further, the bill will require an independent audit of the technology assisted voting system both before and after each general election to ensure that it properly reflects the votes cast and that it is secure. This will allow tests of the iVote system software to ensure that it is accurate and that the secrecy of votes is protected, with the system resistant to hackers and any other malicious tampering.

As a further measure to guard the integrity of the system, the bill contains an offence provision for any person who destroys or interferes with the technology used by the Electoral Commissioner in connection with technology assisted voting. The maximum penalties for breach are 100 penalty units, three years imprisonment or both. These penalties are equivalent to those under the Act concerning bribery and intimidation. Finally, governments must be prepared for an unforeseen failure of technology and have in place contingency plans. The iVote system is no exception. In the event of an emergency or catastrophic technical failure of the technology assisted voting platform, there are provisions for iVoting to be withdrawn as a form of voting for an election. This may occur either by the making of a regulation or by determination of the Electoral Commissioner.

In addition to establishing iVoting, the bill will also make a number of amendments regarding the conduct of elections under the Act, many of which were requested by the Electoral Commissioner. These are set out in schedule 2 of the bill. The changes predominantly arise as a result of the introduction of the automatic enrolment in New South Wales or are being made for consistency with changes made by the Commonwealth to its procedures. The bill amends the Act to provide that the Electoral Commissioner is not required to vote in New South Wales parliamentary elections. This provision is to enhance the impartiality of the office of the Electoral Commissioner. Currently, the Act makes returning officers ineligible to vote at any Legislative Assembly election. The bill will amend the Act to provide that the returning officer for an electoral district will be ineligible to vote only at a Legislative Assembly election for the district for which they are returning officer.

Certain decisions by the Electoral Commissioner are required to be published in the *Government Gazette*. The bill will amend the Act to require that these decisions will be published on the website of the Electoral Commissioner. These decisions include notice of appointment or termination of a returning officer and the appointment or abolition of a polling place. Young people continue to be under-enrolled and the Commonwealth recently has reduced the provisional enrolment age from 17 years to 16 years to address this. The bill will make the New South Wales provisional enrolment age consistent with Commonwealth arrangements. Despite being provisionally enrolled, a person may not vote at an election until they are 18 years old.

The bill will amend the Act to remove the three-month rule. This rule currently provides for the disqualification of an elector who has not lived within the district where she or he is enrolled at some time during the three months prior to the election. The rule may be applied currently when a voter attends a polling place to vote and is asked about their place of residence by an election official. The test is impractical and no longer justifiable given the recent Smart Roll automatic enrolment amendments that have modernised the enrolment record practices of the Electoral Commission. Similar provisions in Commonwealth and Victorian legislation have been removed.

Commonwealth electoral rolls may be updated by electors online. The bill amends the Act, therefore, to allow for the Electoral Commissioner to enrol a person in New South Wales based on the Commonwealth roll information without first having to notify the person. The bill amends the Act to allow the Electoral Commissioner to conduct an electronic draw as an alternative to the manual process for determining the order of candidates for the Legislative Council ballot. The bill will remove inconsistencies in the Act between processes available for people to vote provisionally inside their home electoral district and for those provisionally voting outside their home electorate. It includes enabling an elector to cast certain provisional votes when voting at a declared institution outside the elector's district.

The bill will amend the Act to enable the Electoral Commissioner to determine whether provisional enrolment voting will be available at overseas and interstate pre-polling places for an election. Such provisional enrolment voting was provided under the recent Automatic Enrolment Act 2009 amendments to the Act. However, there may be limited demand for provisional enrolment voting overseas. Therefore, the cost of training staff at international missions may not be justified. Accordingly, the amendment will provide the Electoral Commissioner with the discretion to make provisional enrolment voting available at specific places outside New South Wales.

Schedule 2 of the bill provides that directions for ballot papers are simplified. This will enhance the integrity of the election process by minimising the potential for informal voting. The Electoral Commissioner advises that in 2007, the proportion of informal votes for 11 electoral districts was greater than 4 per cent, and that lack of familiarity with English was a factor in the level of informal voting.

As I have mentioned, schedule 3 of this bill will amend the Government Information (Public Access) Act 2009 to protect sensitive information kept for the administration of elections, including software programs and codes for the iVote system. The bill will amend the Government Information (Public Access) Act 2009 to provide for a conclusive presumption of overriding public interest against disclosure in relation to certain provisions in the Act, specifically those concerning secrecy relating to technology-assisted voting, the violation of secrecy by electoral officers and the disclosure of votes from Antarctica.

Finally, there is a miscellaneous amendment to the Government Information (Public Access) Act 2009 to provide that the investigative and prosecuting functions of the Electoral Funding Authority are "excluded information". This is consistent with the exclusions that already apply to other investigative and prosecutorial agencies, including the Director of Public Prosecutions, the Independent Commission Against Corruption, the office of the Auditor-General, the office of the Ombudsman and the office of the Information Commissioner. This bill is an important reform that supports the principle of a secret ballot. Before arriving at this legislation, lots of work was done looking at options to accommodate voters with all kinds of different needs, and consulting with groups representing the stakeholders. This bill is the culmination of that work and provides an important step forward in our democracy. 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.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 2010

Bill introduced on motion by Mr John Aquilina, on behalf of Ms Kristina Keneally.

Agreement in Principle

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [10.21 a.m.]: I move:

That this bill be now agreed to in principle.

The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010 continues the established statute law revision program that is recognised as a cost-effective and efficient method for dealing with amendments of the kind included in the bill. The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 contains policy changes of a minor and non-controversial nature, which are considered too inconsequential to warrant the introduction of a separate amending bill. That schedule contains amendments to 30 Acts and three regulations. I will mention some of the amendments to give members an indication of the kind of amendments that are included in the schedule. Schedule 1 makes three amendments to various items of legislation that were requested by the New South Wales Ombudsman to assist the transition of the Child Death Review Team from the Commission for Children and Young People to the Ombudsman.

Amendments to legislation in the portfolio of the Minister for Youth will enable the convenor of the Child Death Review Team to determine the remuneration and allowances to which expert advisers appointed by the convenor are entitled, and will repeal an uncommenced amendment that may unnecessarily limit the capacity of the convenor to provide certain confidential information about child deaths to the Ombudsman. The Community Services (Complaints, Reviews and Monitoring) Act 1993 is also amended to return the basis of reporting of the Ombudsman's work and activities under the Act in relation to child deaths to calendar years rather than financial years.

Schedule 1 amends the Motor Vehicles Taxation Act 1988 to simplify the circumstances in which a pensioner will be exempt from the need to pay tax on the registration of a motor vehicle. The amendments broaden the classes of pensioners eligible for an exemption and simplify or remove various requirements relating to proof of eligibility. The cooperatives legislation is amended by schedule 1 to insert savings and transitional provisions and make minor consequential amendments required to implement the national personal property securities scheme that is due to commence next year. Amendments are also made by schedule 1 to the strata schemes legislation. These will enable easements and covenants to be created over lots in a strata scheme on registration of a strata plan of consolidation, rather than just on registration of the original plan for a strata scheme or a strata plan of subdivision.

The Heritage Act 1977 is amended by schedule 1 to enable regulations to provide for a scheme for the maintenance of moveable objects that are listed on the State Heritage Register and of buildings or works that are

listed on that register as ruins, as neither of these is accommodated by the Act's current scheme for the maintenance and repair of listed items. Schedule 1 also amends the Conveyancing Act 1919 to extend the circumstances in which a court may determine the amount payable under a mortgage and arrange for its discharge on the application of the person entitled to redeem the mortgaged land. These will now include the circumstance where either the mortgagee is deceased and is without a personal representative or unlikely to have a personal representative or it is uncertain who the personal representative is.

Schedule 1 makes a number of amendments to the Independent Commission Against Corruption Act 1988 to implement various recommendations of the Joint Parliamentary Committee on the Independent Commission Against Corruption. These include requiring a public authority within three months of receiving a copy of a recommendation by the commission to take action to reduce the likelihood of corrupt conduct occurring, to inform the commission of whether it proposes to implement any plan of action in response to the recommendation, and, if so, of the plan. A public authority that notifies the commission of a plan of action must then inform the commission of any progress it makes in implementing the plan on a 12-monthly basis.

These amendments also increase the term of office of an assistant commissioner of the Commission from five years to seven years, and increase the maximum period for which a person may hold office as an assistant commissioner from terms totalling not more than five years to terms totalling not more than seven years. Amendments made to the Adoption Act 2000 by schedule 1 will enable a principal officer of an accredited adoption service provider to delegate to appropriately qualified employees of the service provider or of an affiliated foster care service, the principal officer's function under the Act of preparing reports about adoptions. This is consistent with the current power of the Director General to delegate his or her function under the Act of preparing such reports.

Delegation is also the subject of a schedule 1 amendment to the Public Sector Employment and Management Act 2002. Currently, the State Contracts Control Board may delegate its functions under the Act to an authorised person, being a member or subcommittee of the board, a member of staff of a division of the government service, a statutory body or officer or any other person or body approved by the Minister. The proposed amendment will allow such a delegate to sub-delegate a delegated function to another authorised person if authorised by the terms of the board's delegation to do so.

Amendments to the Community Relations Commission and Principles of Multiculturalism Act 2000 will expand the number of commissioners from 11 to 15. This amendment is proposed to ensure that the membership of the commission is representative of a broader range of cultural groups. The requirement for a quorum will be amended so that commissioners granted leave by the commission will not be included in the "majority" of members required for a quorum. All commissioners, apart from the chairperson, are part-time and on occasion are unable to attend meetings due to commitments of their other full-time employment. As a result, the commission has experienced difficulties reaching a quorum at times. The amendment will allow for greater flexibility in the making of resolutions by the commission.

The last schedule 1 matter I will mention is the amendments to the Plant Diseases Act 1924. These will extend the definition of "disease" in the Act to include any bacterium, fungus or viroid that causes an abnormal or unhealthy condition in plants and will enable the Governor to declare, by proclamation, any such bacterium, fungus or viroid to be a disease for the purposes of the Act.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting numbering and those updating terminology. Schedule 3 contains amendments that relate to the official notification of the making of certain statutory instruments on the New South Wales legislation website maintained by the Parliamentary Counsel. Schedule 4 repeals a number of Acts and instruments and provisions of Acts that are redundant or of no practical utility, including those that contain only amendments that have commenced. The repeals extend to the Residential Parks Amendment (Statutory Review) Act 2005, which contains only formal provisions and uncommenced amendments that have been superseded by proposed national reforms.

The schedule also repeals a number of Acts whose existing provisions are consolidated in the National Parks and Wildlife Act 1974 without any change to their effect. The Acts and instruments that were amended by the amending Acts or provisions being repealed are up to date and available electronically on the legislation database maintained by the Parliamentary Counsel's Office. The bill continues to provide, for abundant caution, a power for the Governor, by proclamation, to revoke the repeal of any Act or instrument repealed by the bill

and restore its operation, and by amendment to the Interpretation Act 1987 extends the operation of this provision to repeals by future Acts or instruments that provide for its application. Schedule 5 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, and savings clauses for the repealed Acts.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the end of the schedule concerned. If any amendment causes concern or requires clarification, it should be brought to the Government's attention. If necessary, we will arrange for a briefing to provide additional information on the matters raised. If any particular matter of concern cannot be resolved following a briefing and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. 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 later hour.

STATE EMERGENCY AND RESCUE MANAGEMENT AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from 12 November 2010.

Mr KERRY HICKEY (Cessnock) [10.32 a.m.]: I rise to speak in support of the proposed amendments to the State Emergency and Rescue Management Act 1989, which are before the House. This Parliament is well aware of the outstanding work done by New South Wales emergency service workers, both salaried and volunteer. New South Wales has an enviable record of responding to disasters and emergencies, from storms and floods such as those that swamped the south-west of the State last month to domestic and industrial fires and the perennial scourge of bushfire. As we have seen in many countries around the world, the impact of such natural events and emergencies can be vastly magnified by a slow, inappropriate or uncoordinated response. In New South Wales we are fortunate to have not only well-resourced, trained and experienced emergency services to respond directly, but also the great benefit of a series of well-developed, practised and tested emergency management plans and arrangements to guide our agencies in ensuring a coordinated, cohesive emergency response.

These plans and arrangements are overseen by the State Emergency Management Committee, or SEMC. As the peak coordinating group for our emergency services, this committee is a valuable store of expertise and experience. It comprises the heads or senior executive representatives of the NSW Police Force, NSW Fire Brigades, Rural Fire Service, State Emergency Service and NSW Ambulance Service, along with a raft of other relevant agencies. While the public faces of our emergency services are those personnel who do the hard work on the ground in many of our electorates, the coordination and planning carried out by the SEMC is no less important in our successful management of crises. For more than 20 years the SEMC has provided the support and leadership that has helped our State develop an enviable reputation in emergency management.

As has been mentioned, there have been revisions and amendments to the State Emergency and Rescue Management Act 1989 from time to time. This shows that we are learning from the experience we are gaining over time. This is reflected in the amendments before the House today, which are modest and reasonable and have the full approval of the SEMC members. The bill implements the key recommendations of an SEMC review in relation to its core roles and responsibilities, the appointment of members and other emergency management officials and practical expert assistance to members of the NSW Police Force in emergency situations. It also includes a number of administrative and consequential amendments. The committee has used the knowledge and insight it has gained from two decades of emergency management—as well as, I might add, the experience of other jurisdictions—to refine its roles and functions to facilitate its ability to provide clear, considered leadership and oversight.

The amendments before the House are very straightforward. They focus the SEMC on functions of review and planning, on providing strategic policy and critically maintaining the State Disaster Plan and endorsing State-level supporting plans and sub-plans. The amendments also clarify the positions of the State Emergency Operations Controller, the State Emergency Recovery Controller and the respective deputy controller positions. Part of this involves streamlining the processes of these appointments and clarifying the role of State, district and local emergency operations controllers in providing support to combat agencies during emergency response operations.

They also stress facilitating effective interagency coordination, cooperation and information sharing arrangements and performing any other functions assigned by the Minister. This last matter may seem axiomatic but it is important that the Minister and the committee have the latitude needed to deal with things that cannot be foreseen. Issues or crises may arise that need a novel response. Our emergency service agencies and the SEMC are more than capable of this but it is incumbent upon us as legislators to ensure that the legislation that governs them gives them the scope to act in a fashion not previously prescribed. This has been the thinking in other jurisdictions and, personally, I see that it makes excellent sense.

With the bushfire and storm seasons now well and truly upon us, it is timely to pass the amendments outlined in the bill before the House. The bill does not substantially alter the functions or structure of the committee nor change its emphasis or membership. What it does is give the committee a more focused role in emergency management policy, monitoring and coordination, which is where its focus should most properly be. The SEMC's current functions list a host of activities, such as monitoring hazards, producing hazard management guidelines, arranging for training exercises and issuing warnings to the public. These functions are in fact best—and appropriately—carried out by the combat agencies concerned with managing specific emergencies, either singly or in collaboration. The SEMC should not have a role at this level, beyond satisfying itself that these activities are being conducted appropriately and effectively. It is now time we made sure that the SEMC's functions under the State Emergency and Rescue Management Act 1989 are properly in line with the functions it performs. These amendments will do just that and I therefore commend the bill to the House.

Mr ANTHONY ROBERTS (Lane Cove) [10.38 a.m.]: I note that the Minister for Emergency Services is in the House and on behalf of everyone on this side of the Chamber I say to him that he and his family are in our prayers and thoughts at this time. I speak on behalf of the New South Wales Liberals and Nationals and advise that we will not oppose the State Emergency and Rescue Management Amendment Bill 2010. The object of the bill is to make a number of amendments to the State Emergency and Rescue Management Act to modify membership of the State Emergency Management Committee and amend its functions; to clarify the ex officio nature of certain positions on the SEMC; to modify emergency management arrangements and the way certain functions are exercised; to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency; and to make a number of other minor amendments, which I will deal with.

The last comprehensive review of the State emergency services was the "Review of Rescue Policy in New South Wales" by Major General R. A. Grey in 1988, commissioned by then Minister George Paciullo. In 1989 the new Liberals and Nationals Government approved a major restructuring of the rescue services and emergency management arrangements based on Major General Grey's recommendations. The State Emergency and Rescue Management Act 1989, which was the principal enabling statute for the restructure, has created seemingly robust management structures.

The key body established under the Act, the State Emergency Management Committee, is responsible for coordinated planning and policy development for emergency management in New South Wales. The committee includes heads or other senior executive officers from across the emergency services, including the NSW Police, New South Wales Fire Brigades, the Rural Fire Service and the New South Wales Ambulance Service, together with representatives from relevant government agencies. In the wake of the 2009 Victorian bushfires the SEMC commissioned a strategic review of the State Emergency and Rescue Management Act 1989. This review provided a number of clear insights into how the Act could be refocused and updated in alignment with best practice emergency management arrangements. The bill seeks to implement key recommendations of this review in relation to the core roles and responsibilities of the SEMC.

The shadow Minister in the other place, the Hon. Melinda Pavey, who does a wonderful job in relation to State emergency services, noted that the significant increases in agency size, scope and budgets have led to the professionalisation of many roles which were previously occupied by volunteers. This has led to a tension between staff and volunteers, particularly in organisations such as the Rural Fire Service. There has been an increased tendency to a silo mentality and an overall lack of coordination between agencies. Relatively minor emergencies, such as a truck accident on the F3, can lead to significant flow-on effects due to this non-communication between the organisations. Unfortunately, it is usually only after a significant disaster or emergency that these issues are examined and resolved. The shadow Minister noted that this bill is a very poor response to what the Government claims was a strategic review following the F3 debacle and the Victorian bushfires. Speaking of the F3 debacle reminds me of the three Liberal candidates, Chris Spence, Darren Webber and Chris Holstein, on the Central Coast who came forward following the ridiculous events on the F3.

Mr Daryl Maguire: They needed survival packs.

Mr ANTHONY ROBERTS: One would think that only in Third World nations would motorists have to carry a couple of litres of water and food and possibly stay overnight because of a Government failure.

Mr Daryl Maguire: The poor family with the baby.

Mr ANTHONY ROBERTS: One poor family had a one-month-old baby. The Government failed to implement any of the management programs that were in place. Staff did not have keys to open gates, which would have improved traffic flow and solved the situation. As I said, this was as a result of a silo mentality, a lack of communication between organisations and constant bickering in government agencies where the left hand does not know what the right hand is doing.

Mr Kerry Hickey: Like the right wing of the Liberal Party.

Mr ANTHONY ROBERTS: Was the member for Cessnock stuck in that F3 debacle?

Mr Kerry Hickey: No, I just got out of it.

Mr ANTHONY ROBERTS: He rides a motor bike. He could have shot up the guts.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! The member for Cessnock will cease interjecting. The member for Lane Cove has the call. Members who wish to engage in private conversations will do so outside the Chamber.

Mr ANTHONY ROBERTS: The Legislation Review Committee stated:

Considering that the amendments foreshadowed by this Bill are largely minor in nature, and given that the Committee has not identified any other issue in this Bill that may unduly trespass on personal rights and liberties, the Committee does not regard the Minister's discretion to commence the Act by proclamation to be an inappropriate delegation of power in this instance.

I reiterate that we will not oppose this bill. On behalf of the Liberals and Nationals Coalition, I acknowledge and pay tribute to the men and women who perform the various roles in the emergency services throughout New South Wales. They do so much under often difficult circumstances. They put their lives at risk to make sure that persons and property are protected in this State.

Mr DAVID HARRIS (Wyang—Parliamentary Secretary) [10.45 a.m.]: I speak in support of the proposed amendments to the State Emergency and Rescue Management Act 1989, which are in the bill before the House. This Parliament is well aware of the outstanding work done by New South Wales emergency service workers, both salaried and volunteer. New South Wales has an enviable record of responding to disasters and emergencies, from storms and floods such as those that swamped the south-west of the State last month to domestic and industrial fires and the perennial scourge of bushfire. As we have seen in many other countries around the world, the impact of such natural events and emergencies can be vastly magnified by a slow, inappropriate or uncoordinated response. In New South Wales we are fortunate to have not only well-resourced, trained and experienced emergency services to respond directly, but also the benefit of a series of well-developed, practised and tested emergency management plans and arrangements to guide our agencies in ensuring a coordinated, cohesive emergency response.

These plans and arrangements are overseen by the State Emergency Management Committee, or SEMC. As the peak coordinating group for our emergency services, this committee is a valuable store of expertise and experience. It comprises the heads or senior executive representatives of the NSW Police Force, New South Wales Fire Brigades, Rural Fire Service, State Emergency Service and New South Wales Ambulance Service, together with a raft of other relevant agencies. While the public faces of our emergency services are those personnel who do the hard work on the ground, the coordination and planning carried out by the SEMC is no less important in our successful management of crises. For more than 20 years, the SEMC has provided the support and leadership that has helped our State develop an enviable reputation in emergency management.

As has been mentioned, revisions and amendments to the State Emergency and Rescue Management Amendment Act 1989 have taken place from time to time. This shows that we are learning from the experience that we gain over time. This is reflected in the amendments before the House today, which are modest and

reasonable and have the full approval of the SEMC members. This bill implements the key recommendations of an SEMC review in relation to its core roles and responsibilities, the appointment of members and other emergency management officials and practical expert assistance to members of the NSW Police Force in emergency situations. It also includes a number of administrative and consequential amendments. The committee has used the knowledge and insight it has gained from two decades of emergency management, as well as the experience of other jurisdictions, to refine its roles and functions to facilitate its ability to provide clear, considered leadership and oversight.

The amendments before the House are very straightforward. They focus the SEMC on functions of review and planning, providing strategic policy, critically maintaining the State Disaster Plan and endorsing State level supporting and sub-plans. The amendments also clarify the positions of the State Emergency Operations Controller and the State Emergency Recovery Controller and the respective deputy controller positions. Part of this involves streamlining the processes of these appointments and clarifying the role of State, district and local emergency operations controllers in providing support to combat agencies during emergency response operations. They also stress facilitating effective interagency coordination, cooperation and information-sharing arrangements and also performing any other functions assigned by the Minister. This last matter may seem axiomatic but it is very important that the Minister and the committee have the latitude needed to deal with things that cannot be foreseen.

Issues or crises might arise that need a novel response. Our emergency services agencies and the SEMC are more than capable of addressing those issues. However, it is incumbent on us as legislators to ensure that the legislation that governs them gives them the scope to act in a fashion not previously prescribed. This has been the thinking in other jurisdictions which I believe makes excellent sense. With the bushfire and storm seasons now well and truly upon us it is timely to pass the amendments outlined in this bill. This bill does not substantially alter the functions or structure of the committee, or change its emphasis or membership. It will give the committee a more focused role in emergency management policy, monitoring and coordination, which is where its focus most properly should be.

The SEMC's current functions list a host of activities such as monitoring hazards, reducing hazard management guidelines and arranging for training exercises and warnings to the public. These functions are best and appropriately carried out by the combat agencies concerned, with managing specific emergencies either singly or in collaboration. The SEMC should not have a role at this level beyond satisfying itself that these activities are being conducted appropriately and effectively. It is time we ensured that the functions of the SEMC under the State Emergency and Rescue Management Amendment Act 1989 are properly in line with the functions it performs. Mr Assistant-Speaker, I am sure you read a recent article in the *Sydney Morning Herald* which stated that the Liberal Party head office declared an emergency in relation to the candidates for Wyong and The Entrance, called them to head office and told them they were underperforming.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! I cannot hear clearly what the member for Wyong is saying. I ask him to repeat his statement.

Mr DAVID HARRIS: I apologise, Mr Assistant-Speaker. I think Mr Webber and Mr Spence were called to the head office of the Liberal Party and told that if they did not improve their act they would be disendorsed because they were not working hard enough. These amendments will ensure that the functions of the SEMC under the State Emergency and Rescue Management Amendment Act 1989 are properly in line with the functions that it performs. I commend the bill to the House.

Mr GEOFF PROVEST (Tweed) [10.52 a.m.]: Once again I am 100 per cent for the Tweed. I make a brief contribution to debate on the State Emergency and Rescue Management Bill 2010 and place on the record my support for our local State Emergency Service [SES] volunteers. My son, Patrick, is a member of our local SES, which does a fine job. The SES has issues with its current tenure on the land, but I am sure the Minister for Emergency Services is fully aware of those issues and is attempting to resolve them. The objects of the bill are as follows:

- (a) to modify the membership of the State Emergency Management Committee and to amend its functions
- (b) to clarify the ex officio nature of the positions of the State Emergency Operations Controller and the State Emergency Recovery Controller and the respective Deputy Controller positions
- (c) to modify emergency management arrangements and the manner in which certain emergency management functions are exercised

- (d) to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency
- (e) to make a number of miscellaneous amendments of a minor, administrative or consequential nature.

The last comprehensive review of the State's emergency service—it was conducted in 1988 by Major General R. A. Grey—was entitled "Review of Rescue Policies in New South Wales". That review was commissioned by Minister George Paciullo. In 1989 a Coalition Government approved a major restructuring of rescue services based on Grey's recommendations. There have been significant increases in the agency's size, scope and budget, which led to professionalising many roles that were previously held by volunteers. Subsequently that led to tension between staff and volunteers, in particular, in the Rural Fire Service. It is an unfortunate fact that normally it is only after a significant disaster or emergency that these issues are examined and resolved.

I am sure all members remember the F3 debacle that occurred close to the electorate of Assistant-Speaker Mr McBride and what appeared to be a lack of coordination between different government agencies and the Roads and Traffic Authority. As this strategic review was not comprehensive enough and its results have not yet been made public I have no confidence in the major issues that have been identified in this bill. I ask the Minister in reply to explain the interplay between the Roads and Traffic Authority and other government agencies to ensure that we do not witness another F3 debacle. This issue is a matter of major concern, in particular, because of the proposed \$360 million upgrade at Sexton Hill. Locals are concerned that a similar debacle could occur in the Tweed. How will these proposed amendments resolve such a debacle in future? I note that a number of emergency management practitioners have been consulted in relation to this legislation. I reiterate the fact that it usually takes a disaster before issues such as this are reviewed.

As I stated earlier, the last review was commissioned in 1988. I do not oppose this bill. However, I believe that the Government could do more to assist SES volunteers who put their lives on the line for the betterment of their local communities. No-one is more aware of the work that they do than I am, as last year my son was rescued when floods nearly swept him and other SES volunteers out to sea. Once again I am 100 per cent for the Tweed.

Mr THOMAS GEORGE (Lismore) [10.56 a.m.]: I contribute briefly to debate on the State Emergency and Rescue Management Amendment Bill 2010, the overview of which is as follows:

The object of this Bill is to amend the State Emergency and Rescue Management Act 1989 (the Principal Act) as follows:

- (a) to modify the membership of the State Emergency Management Committee and to amend its functions
- (b) to clarify the ex officio nature of the positions of the State Emergency Operations Controller and the State Emergency Recovery Controller and the respective Deputy Controller positions
- (c) to modify emergency management arrangements and the manner in which certain emergency management functions are exercised
- (d) to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency
- (e) to make a number of miscellaneous amendments of a minor, administrative or consequential nature.

As other members have said, the last comprehensive review of the State's emergency services, which was conducted in 1988 by Major General R. A. Grey, was entitled "Review of Rescue Policy in New South Wales". In 1989 the Coalition Government approved a major restructuring of the rescue services and emergency management arrangements based on Grey's recommendations. The State Emergency and Rescue Management Act 1989 was the principal enabling statute for the restructure and it has created seemingly robust management structures. After the terrorist attacks on September 11, in 2001, emergency service agencies round the world increased significantly in size and responsibility. The NSW Fire Brigades, the Rural Fire Brigade and State Emergency Services received significant funding allocations estimated to reach \$904 million, with funding split between local government, State Government and the insurance industry.

Whilst this bill is well overdue, we need to highlight the lack of significant review and reform in this critical area. The Minister has indicated that it has taken some necessary housekeeping to modify the membership of the State Emergency Management Committee, as I outlined earlier. The minor amendments that are made in this bill are considered to be appropriate and useful. Each and every one of us in this place has a number of State Emergency Service and Rural Fire Service units in our communities. I am very proud of the State Emergency Service and rescue management in Lismore, Kyogle, Murwillumbah and outlying areas.

It is good to see the Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs in the Chamber because I know that he recently experienced a family tragedy. We wish his son a speedy recovery. Everyone in this House was pleased to hear this morning that the Minister's son is making steady progress. The State Emergency Service does a wonderful job. The township of Murwillumbah has not been flooded for a number of years. Whilst I have had the honour of representing Murwillumbah for only the past four-year term of this Parliament—

Mr Kerry Hickey: It might be your last term.

Mr THOMAS GEORGE: It may be, too. But at least I am fronting my community to see whether people will elect me—unlike some other members. I am giving them the opportunity to say either yes or no; tick or no tick. People on the other side of the House should not comment because they will have their chance when they make their valedictory speeches next week. At least they will have that opportunity; I may never have one. As I said, Murwillumbah has not been flooded for a number of years but Chris Chrisostomos, Unit Controller for the State Emergency Service, has been busy. In many flood-prone towns businesses have been purchased during the past eight or 10 years that have been flood free and so do not have flood plans. In Murwillumbah Chris and his team have doorknocked every business and found that not only do many not have flood plans but also oftentimes the owners do not live in the town and could not reach their business in the event of a flood.

The State Emergency Service is out doorknocking each business, making sure the owners have a plan or helping them to develop one to handle a flood situation. Many towns have not had a flood for a number of years and many businesses are not even aware of where the water goes or what they should do. I commend the State Emergency Service for not only educating people on how to handle a flood in Murwillumbah but also conducting the same exercise in Lismore for the past four or five years. Thank goodness for the State Emergency Service. If it were not for the State Emergency Service, people would have no idea—not through ignorance but because they do not understand what floods will do; none of us knows what a flood will do because no two floods are the same—where to turn or what to do during a flood. The Opposition will not oppose this bill. I commend the operations of the State Emergency Service throughout my electorate of Lismore.

Mr DARYL MAGUIRE (Wagga Wagga) [11.03 a.m.]: I am delighted to make a contribution to debate on the State Emergency and Rescue Management Amendment Bill 2010. I pass on my best wishes to the Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs and to his family for his son's speedy recovery. It could have been a tragic outcome, and we wish him well. The bill proposes to make a number of amendments to modify the membership of the State Emergency Management Committee and to amend its functions; to clarify the ex officio nature of certain positions on the State Emergency Management Committee; to modify emergency management arrangements and the way certain functions are exercised; to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency; and to make a number of other minor amendments.

The last comprehensive review of the State Emergency Service was the Review of Rescue Policy in New South Wales conducted by Major General R. A. Grey in 1988, commissioned by then Minister George Paciullo. In 1989 the new Coalition Government approved a major restructure of the rescue services and emergency management arrangements based on Grey's recommendations. The State Emergency and Rescue Management Act 1989 was the principal enabling statute for the restructure and has created seemingly robust management structures. I understand that funding has become difficult as the organisations have grown, and it is understandable that there have been some communication and management problems. It is important that the Government get the process right because in times of crisis we rely on these wonderful volunteers and paid professionals to protect our property, to carry out rescues and to do all those other things that we traditionally acknowledge on Volunteers Day when we speak in Parliament about the heroic efforts of the people involved. I am sure that members will speak positively about amending the Act to bring about an improvement in communications.

Several weeks ago I spoke in this House about a natural disaster that occurred when terrible storms swept through the Tumut, Wagga Wagga and Lockhart local government areas. Hundreds of homes were inundated as a result of flash flooding caused by some seven inches of torrential rain. I want to raise a couple of issues with the Minister that he may be able to address at some point in the very near future. They are not criticisms; I hope that he will consider my points constructively in the context of helping our emergency services deal with the difficulties that communities experience. In Lockhart, for instance, the recent flooding was about 60 centimetres higher than flooding that occurred in 1974. Water levels throughout the whole catchment, including the Burkes, Bullenbung, Brookong, Urangeline and Billabong creeks, rose extraordinarily fast. I believe it was difficult for emergency services to gauge the volume of water at the time.

Records of Murrumbidgee River floods have been kept for many years and emergency services can now predict almost to the centimetre the level of water in the river and factor that into their management practices. In Adelong the situation was the same as in Lockhart. Torrential rain in Adelong raised the water height to levels not seen since the 1800s. Community members commented that there were warnings but no-one seemed to appreciate the storm's dire consequences or the volume of water. High water levels were compounded by the fact that a lot of timber from the forests and national parks as well as other debris got into the river system. This created artificial dams that diverted the water, causing a lot of damage. My response to the community was that, on the information available, I do not believe anyone could have predicted the ferocity of the storm and the damage that was to occur. However, I suggest to the Minister that it may be a very wise investment to revisit those catchments and allocate some funding to upgrade existing processes or to develop better forecasting models in case we experience more of these one-in-100-year floods.

Emily Gardens Aged Care Centre at The Rock was built 500 millimetres above a one-in-100-year flood level but water came in the back door. Mrs Vi Sonoman, who has lived at The Rock for 87 years on the banks of Burkes Creek, had never seen the water level rise to the height of her backyard. The water flowing through her property was about one metre deep. It may be timely for the Minister to invest in research into flood predictions and to upgrade our emergency services records to allow for better management. I am not criticising; I am simply offering constructive comments that I hope will help to provide more effective services. I understand that communications difficulties were experienced on a number of fronts. Electronic communications in the Tumut area need to be improved. Apparently the technology being used created problems. The Minister should investigate that matter and provide improved radio equipment or whatever is required by the emergency services. That investment would be wise, particularly given that Tumut, Adelong, Batlow, Brungle and many other towns are on the Snowy Mountains Highway and emergency services must cover that difficult geographical terrain, which can make communication difficult. Claims that the communications technology used is inadequate must be investigated.

The broadcasting of emergency services information was also raised. It has been suggested that discussions should be held between the peak bodies that coordinate our responses so wonderfully well. We need a better mechanism to inform the public. I visited the offices of ABC Riverina, which is the emergency radio channel, on the night of the emergency. On my drive home from Sydney I saw the ferocity of the Adelong, Tarcutta and Kyeamba creeks and I realised that we were about to experience a major disaster. I went straight to the ABC's office and had discussions and then rang a number of government members to trigger some action. The office was fully staffed and the station was broadcasting information about the situation. As appreciative as we are of the service that the ABC provides, it must be acknowledged that it attracts only a small percentage of radio listeners. Commercial stations should also be involved in emergency information broadcasting. Apparently the communication of emergency information was not as good as it could have been. People involved in commercial radio would like to have discussions in the near future with the Minister or the heads of emergency services agencies so that they, too, can play a role in broadcasting information to the travelling public.

Hundreds of people were stranded on the roads and some were stranded on their properties by the rising waters. Thankfully, not a soul was lost, and we must count our blessings for that. A number of rescues were carried out but, disappointingly, many of them were made necessary because people ignored warnings issued by emergency services personnel and police officers. I understand that people felt they needed to get home or that they should help their loved ones who were stranded, and to do that they had to test the depth of the water. However, as we all know, floodwater flowing across normally dry roadways can cause an enormous amount of damage and undermine those roads. When the water receded, about 50 bridges had been taken out in the Tumut area and extensive roadworks had been undermined. A bridge near Adelong was undermined and the water below it would have been 20 feet deep. A life would have been lost if someone had tried to drive across the creek. Sadly, people did drive into floodwaters. They were rescued by our wonderful volunteers, but they needlessly put lives at risk. That is a reality and it must be addressed during emergencies of this scale.

I put those issues to the Minister constructively. If what I have been told is correct, I would like action taken quickly so that emergency services personnel can better understand the force of the flow and the depth of the water and therefore better plan what must be done. The Minister must also address the communications issues and hold discussions with the commercial radio stations and ABC Riverina to ensure better communication in those geographically challenged areas, such as Tumut and other towns in the Snowy Mountains. I thank the House for its indulgence and I look forward to the Minister's response.

Mr STEVE CANSDELL (Clarence) [11.15 a.m.]: Before I start, I offer my sympathy and best wishes and pray that the Minister's son Lachlan makes a speedy recovery. The object of the State Emergency and

Rescue Management Amendment Bill 2010 is to make a number of amendments to the Act to modify membership of the State Emergency Management Committee and to amend its functions; to clarify the ex officio nature of certain positions on the committee; to modify emergency management arrangements and the way certain functions are exercised; to enable police officers to be aided or accompanied by assistants when taking safety measures in danger areas affected by an emergency; and to make a number of minor amendments.

The last comprehensive review of the State's emergency services was reported in the Review of Rescue Policy in New South Wales produced by Major R. A. Grey in 1988. The review was commissioned by then Minister George Paciullo. In 1989 the new Liberal-Nationals Government approved a major restructure of the rescue services and emergency management arrangements based on Major Grey's recommendations. The State Emergency and Rescue Management Act 1989 was the principal enabling statute for the restructure and has seemingly created robust management structures.

Since the terrorist attacks of 11 September 2001, emergency services agencies around the world have increased significantly in size and responsibility, with commensurate increases in budgets. In New South Wales in 2000-01 the combined budget across emergency services—which include the New South Wales Fire Brigades, the Rural Fire Service and the State Emergency Service—was \$425 million. In 2010-11 the budget is estimated to be \$904 million. That is an incredible increase. That budget is split 11.7:14.6:73.7 between local government, the State Government and the insurance industry. The significant increases in agency size, scope and budget have led to the professionalisation of many roles previously undertaken by volunteers. That has caused tension between staff and volunteers, particularly in organisations such as the Rural Fire Service. There has also been an increasing tendency to move to a silo mentality and the development of an overall lack of coordination between agencies. Consequently, relatively minor emergencies such as a truck accident on the F3 can have significant flow-on effects. That is the result of issues with interoperability. It is an unfortunate fact that it is normally only after a significant disaster or emergency that these issues are examined and resolved.

In light of those issues, the bill is a very poor response to what the Government claims was a strategic review following the F3 debacle and the Victorian bushfires. In the wake of the 2009 Victorian bushfires, the State Emergency Management Committee commissioned a strategic review of the State Emergency and Rescue Act 1989. This review provided a number of clear insights into how the Act could be refocused and updated in alignment with best-practice emergency management arrangements. The bill seeks to implement key recommendations from the review in relation to the core roles and responsibilities of the State Emergency Management Committee.

The bill undertakes some necessary housekeeping, and the minor amendments are considered appropriate and useful, but overall the bill is neither strategic nor significant. It claims to provide for a more strategic role for the State Emergency Management Committee but does not allocate appropriate resources to allow the committee to perform this role. The strategic review of the Act does not appear to be comprehensive and its results have not been made public. There can be no confidence that any major issues identified are reflected in the bill. The F3 debacle demonstrates the need for a representative of the Roads and Traffic Authority to be on the State Emergency Management Committee and, although the Minister has the power to nominate such a representative, there does not appear to be any political will for this to occur.

Although the bill contains some housekeeping measures, I am concerned that more should be done for our emergency services. All our emergency services volunteers and paid staff are very dedicated. In the Richmond and Clarence valleys in my electorate the State Emergency Service and the Rural Fire Service do a magnificent job during times of flood. The State Emergency Service was heavily involved during last year's flood, ensuring that supplies reached isolated areas and in evacuations. One point that came out of the review of that flood was that not enough local knowledge was used to counter the problems it caused. I refer to water height readings along the river. In the old days, they would say the river height is 11-point something metres at Lilydale and then estimate the height for the Clarence, and they were always pretty well spot on. However, the calculation was not done this time. Unfortunately, the river height was overestimated and a fair bit of unnecessary angst was caused because the local people were not more involved in the decision-making process.

The State Emergency Service and the Rural Fire Service do a great job, and not just during floods. We have had several major fires in the Clarence. The Rural Fire Service workers have battled fires 24/7, trying to save properties and doing their best in extreme and dangerous circumstances. The part of the Pacific Highway that runs through my electorate has been forgotten. A few minor alignments are being undertaken now, but it has not had many upgrades. The State Emergency Service is generally first on the scene when there is major

highway carnage. Congratulations to them; we are fortunate to have these great volunteers in our area. They work selflessly and in dangerous situations. It would be good to see local knowledge brought back into decision-making. I do not oppose the bill, which I commend to the House.

Mr STEVE WHAN (Monaro—Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs) [11.22 a.m.], in reply: There were more speakers than I expected in debate on the State Emergency and Rescue Management Amendment Bill 2010, which makes a minor amendment to the legislation. However, I thank the members for Cessnock, Lane Cove, Tweed, Lismore, Wagga Wagga and Clarence for their input and for the issues they raised in their speeches. This is minor legislation. In essence, it enables the legislative framework to catch up with the practice. The State Emergency Management Committee contains an incredible amount of experience and commitment. It includes representatives that are among the highest-ranking emergency management officials in the State. In the almost two years that I have been Minister I have been impressed by the level of skill and application they bring to planning for emergencies in New South Wales.

A number of members mentioned the involvement of the Roads and Traffic Authority on the State Emergency Management Committee. There is a transport representative on the committee who actively participates in the process. Several Opposition members mentioned the last major review of emergency arrangements, in 1988. There have been a hell of a lot of changes since then in emergency management in New South Wales and fairly consistent reviews to keep our emergency handling processes up to date. In many ways New South Wales leads Australia in emergency management coordination, from our one-stop-shop flood emergency response—members opposite mentioned some floods—and our command mechanisms for bushfires. New South Wales leads the way in that area and Victoria, with its royal commission, is just catching up. However, I think that State still does not have as effective management as New South Wales. A number of positive steps have been taken over many years.

Members opposite mentioned a few issues that I will respond to specifically. The member for Lismore talked about businesses and residents needing flood plans, and said thank goodness for the State Emergency Service [SES]. I think we would all endorse those sentiments about the SES and its work in times of flood and storm. The State Emergency Service does a lot of work giving guidance to businesses and residents in preparing their flood plans. It is important that people undertake that work, particularly in flood-prone areas of New South Wales. The member for Wagga Wagga acknowledged the growth in many emergency services bodies over many years. That is the result of the incredible change in the amount of resources provided to those bodies by the Government and, most importantly, of the enthusiasm of volunteers.

The member for Wagga Wagga talked about the recent natural disasters in his electorate, about which I will make a couple of points. He is correct to identify the difficulty with forecasting flood responses when minor rivers and creeks are involved. North Coast members would be well aware of that. They know that no matter how much work one does on modelling for the major rivers, it is sometimes difficult to extrapolate that to smaller waterways. If there is a flash flood or a focused rainfall event over a small catchment area it is very difficult to model the way the flood will move, or indeed to give an advance warning.

In some areas waters rise quite quickly, which makes planning very difficult. Our emergency services do their best to deal with that situation but locals, who know their areas well, also need to make decisions about how rivers and creeks will respond, especially during a flash flood. The member for Wagga Wagga emphasised the message about not crossing flooded waterways. Again, North Coast members will be well aware that that is the main cause of loss of life during floods. I have never forgotten the story that a State Emergency Service controller on the North Coast told me about how he had to direct a father to stop his toddlers playing on a fence in a flooded creek. People have to use their brains in some situations, and unfortunately they are the sorts of reminders we have to give them.

The member for Wagga Wagga also mentioned communications difficulties in the Tumut area. I would be interested to hear more details about radio difficulties, which I hope will be raised in reviews of the local response so that emergency services can address those issues. The member talked about emergency services information broadcasts. The ABC is a terrific ally in getting those messages out. Over the past year we have reached agreements with commercial broadcasters so they are now part of the network as well. However, we recognise the need to improve the situation.

We also have the emergency alert system, which involves sending SMS and voice messages over land lines and to people's mobile phones in particular geographical areas. That system has been in operation for more

than a year and is utilised quite regularly by the State Emergency Service. Again, I emphasise that in many flash floods people do not get much warning and it is just not possible to get messages out. So the community needs to be aware that messages from government and emergency services will never alleviate people's need to be alert and to make sensible decisions. If you are in a flood-prone area and there is a heavy storm in the catchment, you need to make some sensible decisions.

There are drawbacks to some of the flood measuring. Some of the drawbacks are the result of differing responsibilities and that has been reviewed in light of the North Coast floods a year or so ago. The Bureau of Meteorology uses flood measuring that often relies on a variety of its own measurement devices or devices owned by different bodies such as NSW Waterways, the Department of Water and Energy and local councils. The State Emergency Service, which tends to be the one focus agency, unfortunately does not have the resources to take over all the measuring devices because that would require a substantial investment. Therefore, it is necessary for the emergency services to work with councils and other authorities on flood planning.

As the member for Wagga Wagga stated, it is difficult when the water rises above previously unknown limits. On the bureau's predictions in a major flood that usually means the water might go above what was registered previously for that river. Nature throws difficulties at us in those areas that government and emergency services cannot always be specific in dealing with, but I take on board the comments of members. The member for Lane Cove made a couple of mischievous comments about the F3. For some reason the member for Clarence and the member for Tweed also spoke about the F3, with one member referring to it as not covered in the bill. An extensive report was done on the F3, which the Government has implemented. It has put in place management arrangements and those matters have been covered extensively in other statements.

The member for Lane Cove took the opportunity to promote a couple of Coalition candidates on the Central Coast. The member for Wyong responded and correctly identified Chris Spence of The Entrance and Darren Webber of Wyong. An article in the *Sydney Morning Herald* stated that they were identified as underperforming in their seats.

Mr Thomas George: Point of order: The member is outside the leave of the bill. I ask that you bring him back to the leave of the bill.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! Opposition members raised this matter.

Mr STEVE WHAN: Thank you, Mr Assistant-Speaker. I was confident of your support on this occasion. The article in the *Sydney Morning Herald* stated:

The audit, which used several criteria to compare the activity of each of the party's candidates, found Mr Spence and Mr Webber had done next to no campaigning and had raised very little money.

Mr Thomas George: Point of order—

ASSISTANT-SPEAKER (Mr Grant McBride): Order! Do you want to talk about your preselection?

Mr Thomas George: As you have asked that question, at least I am putting myself forward for re-election. The comments of the Minister have nothing to do with the bill. I ask that you bring him back to the leave of the bill and that he complete his reply.

ASSISTANT-SPEAKER (Mr Grant McBride): Order! The Minister is very responsible.

Mr STEVE WHAN: I will return to the leave of the bill after I finish the quote, which states:

They were sent warning letters by the party executive several weeks ago and were called to headquarters for a dressing down last week. There is no move to disendorse them, but it is not being ruled out.

With respect to the comment of the member for Lismore, I have been preselected and I am very pleased to be contesting the next election. I wish my retiring colleagues well in their long service. Also in that vein, I thank members who have passed on their best wishes to my son. I very much appreciate those comments and I have been passing them on to him. As I spent most of last week sitting by his bed, I have been reading out to him all the messages I have received. He has very much appreciated all that support.

Mr Thomas George: I bet you didn't tell him they were from The Nationals.

Mr STEVE WHAN: I did tell him. In fact, The Nationals have been very generous in their comments. I also received a letter from Senator Nick Minchin, which I very much appreciated. His 17-year-old son had sustained serious injuries and he expressed his sympathy as well. All those comments are very much appreciated. Lachlan should be back on his feet this afternoon, hopefully, with a brace on, so we are very excited about the prospect of that.

I return to the bill. The member for Tweed referred to the \$360 million upgrade of Sexton Hill on the Pacific Highway near his area. We hope that the upgrades improve safety on the road and acknowledge the importance of our emergency services in responding to road trauma events and coordinating that work. They will be grateful for those road improvements. The member for Clarence stated that his area had been left out. I have driven in that area and have seen the major improvements on the Pacific Highway since I started driving.

I will not say how long I have been driving but I have seen incredible improvements on that road. I remember distinctly not long after former Premier Bob Carr was elected, he and former Prime Minister Paul Keating stood together on the Pacific Highway to announce the upgrade program. Up until that stage very little had been done. Those Labor governments started the upgrades. This major safety improvement will hopefully reduce calls on our emergency services in the area. This is a very simple, catch-up bill, with minor amendments. It enables the Rural Fire Services Commissioner to make fire danger declarations, which he has been doing anyway. 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.

Passing of the Bill

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

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL 2010

Bill introduced on motion by Mr Barry Collier, on behalf of Mr Michael Daley.

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [11.37 a.m.]: I move:

That this bill be now agreed to in principle.

The New South Wales Government is committed to having best practice revenue laws. The State Revenue Legislation Further Amendment Bill makes important amendments to State tax Acts both to protect the revenue and to ease the compliance burden on New South Wales taxpayers. The bill amends the Payroll Tax Act 2007, the Duties Act 1997 and Land Tax Management Act 1956. The bill also amends the First Home Owner Grant Act 2000 to comply with requirements of the Intergovernmental Agreement on Federal Financial Relations. I will deal firstly with the amendments to payroll tax. The bill amends the employee share scheme provisions of the Payroll Tax Act in relation to valuation of shares and options and the definition of an employee share scheme.

These amendments are necessary because of changes made by the Commonwealth Government in the 2009-10 budget to the method of taxing employee share schemes. The Payroll Tax Act relies on provisions of the Commonwealth Income Tax Assessment Act 1936 to determine when a grant of shares and options becomes liable for payroll tax, and in determining their taxable value, and these amendments align the Payroll Tax Act with the recent Commonwealth changes. This allows the ordinary meaning of market value to be used to determine the value of shares and options. This increases flexibility for taxpayers, who can now choose a valuation method that fits their circumstances and has the lowest compliance costs.

The method for calculating the value of an employee share scheme interest also can be specified by Commonwealth regulation, which will allow taxpayers to use this method instead of the market value. At this

stage the Commonwealth regulations only specify a method for valuing unlisted options. These amendments will ease the compliance burden on New South Wales taxpayers because they will use one set of rules for employers to meet their Commonwealth and State tax liabilities. The new provisions commence on 1 July 2011. These changes have been developed in consultation with other States and Territories in order to maintain payroll tax harmonisation across Australia.

The bill also includes amendments to the Duties Act. The bill provides for three amendments relating to stamp duty on superannuation property transfers. First, the duties concession for persons changing complying superannuation funds has been extended to apply to transfers of marketable securities to a pooled superannuation trust. While the current concession allows transfers of property from a pooled superannuation trust to a complying superannuation fund, it does not allow a reverse transaction, that is, a transfer of property to a pooled superannuation trust from a complying superannuation fund in connection with a person changing funds. This removes significant constraints to persons changing superannuation funds.

Secondly, the bill ensures that concessional duty applies to transfers of property to new trustees of self-managed superannuation funds, where there is no scheme to avoid duty. Finally, the duties concession for transfers of property to self-managed superannuation funds has been extended to allow a transfer of property from a member of the fund to a custodian appointed by the trustee of that fund. This ensures the concession is available where superannuation funds borrow to purchase property.

The bill also includes amendments to the Land Tax Management Act to extend a concession applying on the death of a land owner. The existing concessions are extended from one year to two years. Finally, the bill amends the First Home Owner Grant Act to comply with requirements of the Intergovernmental Agreement on Federal Financial Relations. The grant is capped currently at \$750,000, and homes valued above that amount are not eligible for the grant. The intergovernmental agreement requires the cap to be not less than 1.4 times the capital city median house price, and that figure must be reviewed annually. The bill implements this obligation by increasing the cap to \$835,000 for transactions on and after 1 January 2011.

Amendments contained in this bill have been the subject of consultation with professional and industry bodies, including the Financial Services Council, the Institute of Chartered Accountants and CPA Australia, the Law Society of New South Wales, the Property Council of Australia, and the Taxation Institute of Australia. I wish to thank those organisations for their assistance in preparing this legislation. The amendments introduced by this bill will improve State tax Acts by increasing consistency with other States, Territories and the Commonwealth, while protecting the revenue bases for both payroll tax and transfer duty. I commend the bill to the House.

Debate adjourned on motion by Mr Geoff Provest and set down as an order of the day for a later hour.

PUBLIC HEALTH BILL 2010

Bill introduced on motion by Dr Andrew McDonald, on behalf of Ms Carmel Tebbutt.

Agreement in Principle

Dr ANDREW McDONALD (Macquarie Fields—Parliamentary Secretary) [11.44 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to bring before the House the Public Health Bill 2010. The bill revises and updates the public health legislation in New South Wales and follows on from an extensive review of public health legislation. The current Public Health Act was introduced in 1991. The Act deals with a range of public health matters and includes broad powers to deal with public health emergencies, functions and powers relating to disease control and notification, and powers to control and limit public health risks associated with certain industries and practices. While the current Act operates effectively, the Department of Health's review recommended a range of legislative amendments to modernise and improve the Act. The changes will also ensure that the legislation continues to provide a sound basis to enable public health authorities to effectively protect and promote public health in New South Wales.

In February this year the Department of Health released the consultation draft Public Health Bill for public consultation. The consultation draft was released for a two-month period of general consultation followed

by a further month of specific consultation with local government authorities. Specific consultation with local government was essential due to the key role that local government plays in the field of public health. Over 90 written submissions were received on the consultation draft. The issues and concerns raised, and the solutions proposed, in those submissions and in local government consultation forums, have informed the redrafting of the bill. The bill introduced today is the culmination of this valuable consultation process.

The bill carries over many of the existing provisions of the current Public Health Act but also includes a range of new and amended provisions that will continue to protect and promote public health in New South Wales. Part 1 of the bill deals with preliminary matters and includes, for the first time, an objectives clause setting out the objects of the legislation. The stated objects of the legislation are to protect, promote and improve public health; to control the risks to public health; to promote the control of infectious diseases; to prevent the spread of infectious diseases; and to recognise the role of local government in protecting public health.

The express recognition in the objects of the role local government plays in the field of public health is of particular significance. Local government, with its close community focus and understanding of conditions in its local area, is perfectly placed to offer a professional, effective and responsive public health resource. Local government is to take a primary role in the day-to-day regulation of environmental health premises, such as premises containing regulated systems, public swimming pools, and premises conducting skin penetration procedures. I am pleased that the bill expressly recognises the important role of local government, and I extend the Government's thanks to the mayors, councillors, general managers and other local government employees who have given of their time and expertise in the development of this legislation.

Part 2 of the bill generally corresponds to part 2 of the current Act, and is primarily concerned with ensuring that an effective and rapid response occurs when serious public health threats arise. Part 2 of the current Act grants the Minister for Health emergency powers to make orders dealing with public health risk that arise during a declared state of emergency and more generally. However, the current provisions contain a number of administrative requirements that impede the ability of the Minister to respond effectively to emergency situations. For example, sections 4 and 5 of the current Act require that any order of the Minister dealing with a public health risk must be published in the *Government Gazette* before it takes effect. In addition, section 5 of the current Act, which relates to the power of the Minister to make orders to deal with a public health emergency that is not a declared state of emergency, requires the Minister to consult with the Premier before such orders are made and limits the application of such orders to 28 days.

The review of the Public Health Act recognised that a number of the current administrative requirements associated with making emergency orders do not deliver greater clarity or accountability to any subsequent emergency action, whilst having the potential to slow the response and therefore the effectiveness of that response. Amendment of the relevant provisions therefore is warranted to improve flexibility while ensuring that the appropriate balance is struck with protecting ordinary liberties and freedoms, including freedom of movement and assembly. For example, the requirement that an order be published in the *Government Gazette* before it takes effect may result in unnecessary delays in responding to public health emergencies, such as the outbreak of a pandemic. In addition, the limitation of orders to 28 days may be inappropriately short, particularly when dealing with a serious infectious disease outbreak.

In order to ensure that the Minister can respond immediately to a public health emergency, clauses 7 and 8 of the bill require that an order is to be published in the *Government Gazette* as soon as practicable after it is made. The provisions in the bill also allow for an order relating to a public health emergency that is not a state of emergency to be made for up to 90 days, rather than the 28 days provided for by the current Act. The Administrative Decisions Tribunal will, of course, continue to be able to review the making of such an order. Where a state of emergency has been declared, any order by the Minister that relies on the state of emergency has effect for the duration of the state of emergency unless earlier revoked. The updated provisions in part 2 of the bill will assist the Minister and public health authorities in ensuring that public health emergencies can be responded to rapidly and effectively in order to mitigate risks to the community. I can advise the House that the emergency powers under the current Public Health Act have only rarely been used, with two orders having been made in the past decade: one relating to severe acute respiratory syndrome [SARS] and the other relating to H1N1 influenza [swine flu].

Division 1 of part 3 of the bill relates to safety measures for drinking water, and generally corresponds to the provisions of part 2B of the current Act. However, the bill strengthens provisions

relating to the safe supply of drinking water. Under section 10M of the current Act regulations could be made requiring a supplier of drinking water to establish and adhere to a quality assurance program designed to ensure that the drinking water it supplies is consistently safe to drink. However, the bill, at clause 25, instead requires suppliers of drinking water to establish and adhere to a quality assurance program that complies with guidelines approved by the Chief Health Officer. The change to the Chief Health Officer's guidelines will provide for a more flexible and responsive approach to drinking water safety issues. The Chief Health Officer may exempt a supplier of drinking water from the requirement to develop a quality assurance program, and would do so if satisfied that the supplier is already subject to appropriate regulatory requirements in respect of quality assurance and does not need additional regulation in this area. However, members will universally acknowledge that all members of the community are entitled to expect that they will have access to safe drinking water. The provisions in the bill will assist in delivering on that expectation.

Access to clean and safe drinking water is no less important in the more isolated parts of the State than it is in metropolitan areas. Therefore, the bill includes water carriers in the definition of "supplier of drinking water". In this context, a water carrier is a person who delivers drinking water by the tanker load. In the interests of the health of the people receiving and using that drinking water, it is vital that the same regulatory controls can be applied to water carriers as to other suppliers. These regulatory controls ensure that the tankers used to transport water are fit for purpose, that water is tested for safety, and that proper records are kept so that recipients of water may be contacted in the event that the water they have received is identified as the source of a public health risk. Compliance with the required regulatory controls will not be onerous either in resources or time, and the New South Wales Department of Health will be available to assist water carriers by providing template documentation that can be adapted to suit individual circumstances.

Part 3 of the bill also contains provisions streamlining the enforcement powers of authorised officers in relation to environmental health premises: being premises containing regulated systems, public swimming pools and spa pools, and premises in which skin penetration procedures are undertaken. Under the bill authorised officers will be empowered to issue improvement notices requiring occupiers of environmental health premises to comply with prescribed requirements. The ability to issue an improvement notice will ensure that risks to public health can be proactively managed before they pose a serious threat to public health. However, in situations where premises or the activities undertaken on those premises pose a serious risk to public health, the Director General of Health or the general manager of a local government authority will be able to issue a prohibition order. A prohibition order will prevent a regulated system from being operated, a public swimming pool or spa pool from being open to the public, or skin penetration procedures being performed at the premises until a clearance certificate has been issued. The powers to issue improvement notices and prohibition orders are similar to enforcement powers incorporated in the Food Act 2003, the Protection of the Environment Operations Act 1997 and the Occupational Health and Safety Act 2000.

Part 4 of the bill relates to disease control and notification, and generally corresponds to parts 3 and 7 of the current Act. This part contains provisions relating to the duty of medical practitioners, pathology laboratories and hospitals to notify the Director General of Health of instances of certain diseases and medical conditions. This part also contains provisions dealing with the power of authorised medical practitioners to make public health orders. It is important to note that section 62 (6) (a) of the bill provides that in making a public health order an authorised medical practitioner must take into account the principle that any restriction on the liberty of a person should be imposed only if it is the most effective way to prevent risk to public health. Members will note that the proposed wording differs from that in the current Act, which provides that a public health order may only be made if it is the only effective way to ensure that the health of the public is not endangered. However, notwithstanding the added flexibility that the proposed wording offers, the reality is that as a practical matter the use of public health orders is unlikely to change significantly.

Strategies that seek the voluntary cooperation of individuals will always be preferred to coercive measures, as voluntary action will be the most sustainable. This is especially important where the nature of the illness requires personal behavioural change over a lifetime. Escalation of public health action to the more interventionist approaches, including the use of public health orders, will not generally be considered unless less restrictive alternatives have been tried or step by step escalation will be insufficient or too slow to appropriately address the public health risk. As these are sensitive matters requiring careful balancing, the bill provides for the development of regulations that will allow further articulation of these important principles and will provide guidance in the management of public health risk.

Part 5 of the bill carries over provisions from the current Act relating to sexually-transmitted infections, vaccine-preventable diseases and diseases notifiable by hospital chief executive officers. The main change to these provisions relates to the offence provisions concerning sexually-transmitted infections. The current Act provides in section 13 that it is an offence for a person who has a sexually-transmitted infection to have sexual intercourse with another person unless the second person has been informed of the risk of contracting the infection and has voluntarily agreed to the risk. The bill before the House provides in clause 79 (3) that a person charged with such an offence has a defence if he or she satisfies a court that he or she took reasonable precautions to prevent the transmission of the sexually-transmitted infection.

The availability of this defence is an important inclusion. It is important to encourage individuals to take reasonable precautions. Under the Act "reasonable" will be measured on an objective standard and will include safe-sex practices, protecting the people using them from liability just as it will protect them and their partners from disease transmission. It is essential to recognise that this type of positive physical and behavioural precaution is far more effective in protecting public health than the verbal disclosure of an infection. However, where there is a malicious or criminal intent associated with the transmission of a sexually-transmitted infection there are provisions in the Crimes Act that allow for criminal prosecution.

Part 5 of the bill also contains new provisions relating to the reporting of deaths associated with anaesthesia or sedation. Prior to the commencement of the Coroners Act 2009 all such deaths were reported to the Coroner, and subsequently notified by the Coroner to the Special Committee Investigating Deaths Under Anaesthesia [SCIDUA]. However, changes to the reporting of deaths to the Coroner under the Coroners Act 2009 mean that not all deaths occurring while under or as a result of or within 24 hours after the administration of sedation or anaesthesia will be reported to the Coroner and therefore notified to the Special Committee Investigating Deaths Under Anaesthesia.

The safety and reliability of the drugs and techniques used in anaesthesia and sedation have vastly improved over recent decades. This is due to a variety of factors, including the work of SCIDUA which plays a vital role in reviewing anaesthesia-related deaths and assisting in ensuring that policies and practices are in place to help decrease the number of such deaths occurring in the future. It is vital that there is a mechanism under which SCIDUA will be notified of all such anaesthesia- and sedation-related deaths. Accordingly, the bill includes provisions in division 3 of part 5 requiring health practitioners to notify the Director-General when they become aware that a patient has died while under, as a result of or within 24 hours after the administration of sedation or anaesthesia. It is expected that the Director-General's role in this regard will be delegated to SCIDUA. This will ensure that SCIDUA can continue its vital function of reviewing anaesthesia- and sedation-related deaths. This situation has been in place for the past 12 months by way of regulation under the current Act.

Part 6 carries over provisions dealing with public health registers, the most widely recognised of which is the Pap Test Register. Part 6 also will include new provisions allowing public health registers to be established for a range of public health purposes, such as facilitating care and treatment and follow-up of persons who have been exposed to diseases, identifying sources of infection and monitoring the outcomes of population health interventions. The information on these registers will be anonymous unless the individual concerned gives consent to the inclusion of identifying details. The Office of the Privacy Commissioner has reviewed the provisions and the Department of Health's planned use of them and has indicated its support.

Part 7 of the bill relates to miscellaneous health services, such as health services provided by unregistered health practitioners, and generally carries over provisions currently found in part 2A of the current Act. Part 8 of the bill relates to enforcement and has consolidated and modernised the powers of authorised officers to undertake inspections and compliance activities. Part 9 of the bill relates to general administration of the Act and other miscellaneous provisions and includes provisions relating to the appointment of authorised officers and public health officers who will be responsible for coordinating activities in relation to public health within particular areas. The development of the Public Health Bill has taken a substantial amount of time. I thank all stakeholders for their patience and forbearance. However, I believe that the time has been well spent and that the bill before the House will provide an appropriate legislative platform to take public health activity forward over the coming years. I commend the bill to the House.

Debate adjourned on motion by Mrs Jillian Skinner and set down as an order of the day for a future day.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2010

Bill introduced on motion by Ms Linda Burney.

Agreement in Principle

Ms LINDA BURNEY (Canterbury—Minister for the State Plan, and Minister for Community Services) [12.03 p.m.]: I move:

That this bill be now agreed to in principle.

Before I speak on the bill, I seek the indulgence of the House to recognise two wonderful young women who are in the gallery, Kalkani Choolburra and Lauren Breen from Randwick Girls High School. They have been undertaking work experience in my office and it has been a delight to have them here. The Children and Young Persons (Care and Protection) Amendment Bill 2010 will amend the Children and Young Persons (Care and Protection) Act 1998 to improve the regulatory framework for voluntary out of home care and clarify provisions that support general casework and court practice. The bill also will facilitate probity checking of those people who control, operate and/or manage a children's service. Some of the amendments included in the bill relate to provisions of the care Act, which were introduced to implement recommendations of the Special Commission of Inquiry into Child Protection Services undertaken by Justice Wood. All would agree that enacting Justice Wood's recommendations was a herculean task. Agencies involved in child protection have now had an opportunity to work with the post-Wood inquiry amendments. It has become clear that some clarification is required to ensure that child protection practice truly reflects the intentions of Justice Wood.

I will now outline the amendments in detail. I turn first to voluntary out of home care. Voluntary out-of-home care is out of home care that is arranged by a parent where there are no child protection concerns requiring Community Service intervention. The bill makes a number of amendments to improve the protections afforded to children and young people in voluntary out-of-home care. These changes are important, not least because many of these children have disabilities and so are particularly vulnerable. Clause 9 provides for new section 135C, which amends the definition of "voluntary out-of-home care" so that it applies to out-of-home care arranged by a parent of a child or young person, unless that care is provided by an individual acting in a private capacity, such as a family friend or relative. This means a child will benefit from the regulatory regime that governs voluntary out of home care when an organisation or body is involved in providing or arranging that care, unless the care arrangement is exempt from the out-of-home care regime under the Act or regulations—for example, where care is provided by a boarding school, children's service or hospital.

These arrangements are subject to other regulatory regimes. The Act currently only applies to care arranged between a parent and a designated agency or an agency registered by the Children's Guardian. The new definition will apply more broadly. The amendment to clause 9 of the bill defines "voluntary out-of-home care" with reference to the nature of the care provided, rather than the accreditation or registration status of the care provider, thereby ensuring that the definition extends to children in the care of organisations that are operating unlawfully. To support this amendment, the bill also includes new offence provisions which make it an offence for unaccredited or unregistered organisations to provide or arrange voluntary care so that any organisation which is operating unlawfully can be dealt with.

Clause 10 of the bill amends section 156 of the Care Act to enable the Children's Guardian to register those agencies that arrange voluntary out-of-home care. Currently, only those agencies that provide voluntary out-of-home care are required to register. A number of agencies broker voluntary care services, conduct assessments of the care needs of children and young people and their families and manage the intake of children and young people into the voluntary care system. This amendment ensures such agencies must register with the Children's Guardian and are subject to the Children's Guardian's statutory procedures for voluntary out-of-home care intake, assessment, interagency coordination and case planning.

The Government has obtained legal advice that the Act is unclear as to the calculation of the time a child or young person is permitted to spend in voluntary care before the designated agency supervision and case planning requirements must be met. The provisions of the Act currently count some periods as months and others as days and require the days in voluntary care to be calculated consecutively. If a child returns to their parents for any length of time, however short, the time frames for supervision and case planning are effectively reset. The current drafting undermines the intention of the reform, which was to ensure that children do not spend excessive amounts of time in care without appropriate supervision and case planning. Clause 12 of the bill

inserts new subsections 156A (1) and (2) to address this concern. Clause 12 of the bill inserts new subsections 156A (1) and (2) to address this concern. The amendment ensures that the total number of days a child or young person spends in voluntary care during any 12-month period is considered in setting both supervision and case planning time frames.

The new subsection 156A (1) also enables the Children's Guardian to directly supervise longer-term voluntary care arrangements. Ageing, Disability and Home Care will provide such supervision for children and young people with disabilities where a registered agency chooses not to contract with a designated non-government agency to take on that role. However, there is no other government agency that can provide a supervision safety net for children and young people in longer-term voluntary care who do not have disabilities. This amendment will ensure that these children and young people have guaranteed access to care supervision by an appropriately qualified body.

Moreover, section 156A (2) will require a designated agency or the Children's Guardian to ensure that a case plan is prepared where they supervise care, rather than requiring them to prepare the plan, as is currently the case. This will ensure necessary flexibility in arranging case management services and enable the agency that provides the greatest amount of care for the child to play a proper role in case planning. A designated agency or the Children's Guardian must participate in case planning and endorse any case plan, rather than take over all aspects of the planning process. The Children's Guardian's statutory procedures provide the framework for agencies involved in the care of children to work together in case planning.

The Act currently regards a child to be at risk of significant harm where there is any breach of the time frames for care supervision and completion of the case plan. However, there will be some cases where a technical breach is unavoidable; for example, where a child or young person enters a new care arrangement after the 180-day mark, where it will inevitably take some time for the new agency to complete a new case plan or to adapt a pre-existing case plan. The technical breaches caused by a change in the child's care arrangements should not result in a mandatory report to the Child Protection Helpline. This will cause unnecessary distress to parents, discourage agencies from taking on children and young people where a critical time frame is imminent or has passed, and will create unnecessary work for helpline staff.

New section 156A (3) allows the Children's Guardian to filter out technical breaches, with only substantive breaches to be passed on as mandatory reports. The Children's Guardian will operate in a manner similar to a Child Wellbeing Unit, with the director-general determining the classes of breach that must be reported to the helpline.

The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 introduced section 172A of the Act, which made it an offence for parents to enter into a voluntary out-of-home care arrangement with a non-designated agency that had not registered with the Children's Guardian. The Government did not proclaim section 172A as the Children's Guardian and carer and child welfare organisations all strongly argued that the Act should regulate the organisations that arrange or provide voluntary care, not parents. As a temporary measure the Government introduced clause 40D of the Children and Young Persons (Care and Protection) Regulation 2000, which established an offence for non-designated or unregistered agencies that provide or arrange voluntary care.

Clause 12 of the bill incorporates a strengthened offence provision into the new section 156B and increases the maximum penalty for unlawfully providing or arranging care to \$22,000, consistent with the penalty regime for organisations that unlawfully arrange statutory or supported care. The standard service agreements of New South Wales and Commonwealth agencies that fund or arrange voluntary care in New South Wales are also being amended to ensure organisations that operate unlawfully are ineligible for government funding.

Clauses 13 to 16 of the bill amend the Act to ensure that all voluntary out-of-home carers are protected from criminal or civil prosecution for physically restraining a child or young person to prevent them from seriously injuring themselves or others. This immunity currently applies only to parents and authorised carers who provide statutory or supported care. People who provide voluntary care should be entitled to the same protections. The Children's Guardian has raised concerns about whether her office has the power to monitor the manner in which voluntary care agencies comply with their legal obligations. Clause 20 of the bill amends section 181 of the Act to put this matter beyond doubt. Further, clause 21 amends section 185 to ensure that the Children's Guardian can access voluntary out-of-home care agency information about the safety, welfare and wellbeing of children and young people in voluntary care.

I now turn to the proposed amendments which relate to general matters and court procedures. The first is section 45, the calculation of a 72-hour time frame. Justice Wood increased the period within which an emergency care application must be submitted to the courts after the removal of a child or young person from 24 to 72 hours. This was to ensure that the evidence put before the court in an application was as complete as possible so that the best decision can be made by the court. Other benefits which flow from this amendment are that parents or those with parental responsibility have a more complete picture of the reasons for taking the child into care; the amendment discourages rushed decision making; and it allows more time for parents to be located, served and for them to arrange legal representation, which should, in turn, limit the frequency of adjourning matters. However, there has been some uncertainty about the application of the time frame and, accordingly, this bill will clarify that the 72-hour time frame refers to three working days. Clauses 6 and 7 of the bill ensure that the time frame is interpreted and applied consistently by both the Local Court and the Children's Court.

I am particularly cognisant that public holidays may result in an unreasonably long delay between the removal of a child or young person and an application being filed with the Children's Court. This is most likely to occur during the Christmas and Easter holiday periods. The bill addresses this issue by requiring the director-general to file an application no later than five days after a child has been taken into care, even in periods of extended public holidays such as Christmas and Easter. Naturally, if the fifth day is not a working day the application will have to be made on the next working day.

The bill introduces two important new law reforms that will improve the interface between the child protection jurisdiction and other courts and tribunals. Clause 1 of the bill will enable child protection reports to be admissible in child welfare proceedings before other courts and tribunals such as the Family Court, the Supreme Court, the Administrative Decisions Tribunal, the Victim's Compensation Tribunal and the Coroner's Court. Allowing these reports to be considered by courts in cases involving children will provide important contextual information to enable the courts to better determine what is in the best interests of a child or young person and to make fairer decisions.

The amendment includes an important proviso: that child protection reports will only be admissible in legal proceedings, provided that the identity of the reporter who makes the risk of harm report is not disclosed. The continued protection of the reporter will not put in jeopardy people's willingness to report children and young persons at risk of significant harm. Clauses 2 to 4 of the bill will amend section 29 (6) to include a definition of "serious offence". Section 29 protects the identity of those who make reports about a child or young person whom they believe to be at risk of significant harm. Currently, under section 29 (4A), Community Services may disclose to police the identity of a person who makes such a report if the identity of the reporter or information which may identify the person is required in connection with an investigation of a serious offence alleged to have been committed against a child or young person.

However, the Act is currently silent on what constitutes a serious offence. The insertion of a definition will help to clarify for both Community Services and for law enforcement agencies the types of offences that constitute a serious offence under the Act and justify the limited lifting of the protection of anonymity. The amendment will ensure that the provision is applied consistently and that reporters' identities are not disclosed unnecessarily. The amendment will instil confidence in Community Services and the police when these requests are made. The definition contained in the bill includes "serious indictable offences" as defined in the New South Wales Crimes Act and "reportable conduct" as defined in the Commission for Children and Young People Act 1998.

Serious indictable offences are those indictable offences punishable by imprisonment for life or for a term of five years or more; for example murder, kidnapping and sexual assault. Reportable conduct includes a range of serious offences against children and young people, such as sex and child pornography offences; offences or misconduct involving child abuse material; child-related personal violence offences such as intentionally wounding a child; voyeurism and related offences; any assault, ill-treatment or neglect of a child; and any behaviour that causes psychological harm to a child.

Section 38 sets out the process for registering a care plan, which is developed through alternative dispute resolution, and with the consent of all parties. It provides that where such a plan involves allocation of parental responsibility or aspects of parental responsibility to someone other than a parent of the child, this must be by way of an order of the court. It also provides that the Children's Court may make other orders to support the agreed care plan. There is currently some confusion about the technical requirements where the court makes orders to support a care plan.

Clause 5 amends section 38 to make clear that where the court makes orders to reallocate parental responsibility or to support a care plan registered under section 38 a care application is not required; and that the court is not required to be satisfied that the child is in need of care and protection. However, the court must be satisfied that the proposed plan will not contravene the principles of the Act, that the parties understand the provisions of the plan and have freely entered into it, and in the case of persons other than the director general that they have received independent legal advice. The proposed amendment reflects the approach currently taken by the court and will clarify the requirements and align the Act with current practice.

Clause 23 of the bill seeks to clarify that the power to take photographs, film, video, audio and other recordings when a Community Services officer or a police officer enters or inspects a premise as provided by section 241 of the Care Act also applies when a Community Services officer or a police officer enters a premise to remove a child or young person they believe is in need of care and protection. This power is very important in gathering the best evidence to allow the court to make a proper decision about what should happen to the child or young person. The proposed amendment will clarify that the director general's delegated officer or a police officer is authorised to take photographs, films or other recordings when they enter premises to remove a child whom they suspect on reasonable grounds is in need of care and protection.

There is little doubt that this was the intention of this provision. However, section 241 may be read as limiting that power to situations in which a police officer or another authorised person enters premises for the purpose of inspecting those premises for compliance with standards set for children's services only. The proposed amendment will ensure that this important evidence gathering tool is also available when a child is removed in circumstances in which the director general or the police suspect on reasonable grounds that the child is in need of care and protection.

Clause 24 of the bill seeks to prevent forum shopping between the Children's Court and the Administrative Decisions Tribunal on the reviewability of permanency plans for children or young persons. The amendment makes clear that the adequacy of a permanency plan to support long-term care orders is a matter solely for the Children's Court, removing the possibility of seeking an additional review of a permanency plan by the Administrative Decisions Tribunal. The decision in *PR v Department of Community Services* highlighted a potential for direct conflict between the jurisdictions in respect to intervening and determining the adequacy of a permanency plan. The intention of the amendment is to circumvent any further conflict or confusion by making clear that a permanency plan, including whether a plan adequately addresses the permanency planning for a child is a matter only for judicial consideration by the Children's Court in making an order to reallocate parental responsibility.

Clause 25 of the bill will amend section 245I of the Care Act to include the Family Court as a prescribed Commonwealth body. This will exclude the Family Court from the information exchange scheme provided for under chapter 16A of the Act. Chapter 16A is predominantly aimed at the exchange of information between State bodies. The omission of the Family Court from this section, which includes inter alia the Federal Court and the Federal Magistrates Court, is an oversight in the Care Act. The proposed amendment of this section to include the Family Court will correct this oversight. The exchange of information between Community Services and the Family Court will continue under section 248—a process which has been agreed by the Family Court and Community Services.

There is currently some confusion over the eligibility of certain carers to financial assistance under section 161 of the Care Act. Clause 17 of the bill will clarify that carers of children and young people who have parental responsibility pursuant to an order of the Children's Court and also those who are providing care under an emergency care and protection order are eligible for financial assistance.

Finally, I turn to clause 22 of the bill, which relates to children's services and probity checking. This amendment is aimed at enabling the director general to undertake probity checks on a person involved in the control and management of a licensee or proposed licensee, a person in the control and management of the majority shareholder corporation of a licensee or proposed licensee or a person who is or is proposed to be an authorised supervisor for a children's service. The Special Commission of Inquiry recommendation to amend the Commission for Children and Young People Act 1998 to require background checks for children's services licensees and authorised supervisors of children's services had the unintended consequence of removing the broad probity checking regulation-making power in the Care Act for Community Services.

This amendment will address this drafting error by restoring the probity checking regulation making power. Such probity checks will capture an applicant's entire criminal record and allow consideration of the

applicant's previous compliance with any child-related legislation; for example, to include any formal actions taken under the Children and Young Persons (Care and Protection) Act 1998 and the Commission for Children and Young People Act 1998. Previous compliance with the Children's Services Regulation 2004 will also be considered, including any decision to refuse an approval under the licensing scheme.

I thank all of those who provided input into the development and drafting of this bill. As members can see, it is complex. Consultations occurred across government agencies and with the sector, particularly in relation to clarifying the interpretation of the timeframes under section 45. The amendments to the voluntary out-of-home care regime have been recommended by the Children's Guardian, which has regulatory oversight of the voluntary out-of-home care sector.

I also extend the Government's thanks to National Disability Services NSW, the Association of Children's Welfare Agencies, Carers NSW and the Federal Departments of Health and Ageing and Families, Housing, Community Services and Indigenous Affairs, which have all contributed to the voluntary out-of-home care reforms in this bill. Family Advocacy and People With Disability also support these reforms and are working with the Children's Guardian to ensure the guardian's oversight systems effectively promote the rights and best interests of children and young people with disabilities and their families.

In conclusion, the bill clarifies some very significant powers under the Children and Young Persons (Care and Protection) Act 1998 and it will, I believe, allow for more consistent interpretation and application of the relevant provisions. Of course, this will make the task of the courts and child protection practitioners clearer. However, most importantly, it will ensure the legislation more effectively achieves its primary objective—that is, the protection of children and young people in New South Wales. 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 later hour.

WAGERING LEGISLATION AMENDMENT BILL 2010

Bill introduced on motion by Mr Greene.

Agreement in Principle

Mr KEVIN GREENE (Oatley—Minister for Gaming and Racing, Minister for Sport and Recreation, and Minister for Major Events) [12.29 p.m.]: I move:

That this bill be now agreed to in principle.

The main purpose of the Wagering Legislation Amendment Bill 2010 is to facilitate the implementation of a package of initiatives designed to assist the New South Wales racing industry, an industry which generates employment for a significant number of people and makes an important contribution to the State's economy. Separately, the bill will strengthen the legislation as it relates to the provision of wagering services at public venues to ensure consistency with Government wagering policy. Betting services are authorised to be conducted in New South Wales by licensees under the Totalizator Act 1997 and by bookmakers who are required to be licensed by a New South Wales controlling body of racing, namely Racing New South Wales, Harness Racing New South Wales or Greyhound Racing NSW. TAB Limited, a wholly owned subsidiary of Tabcorp Holdings Limited, holds licences for the conduct of off-course and on-course totalizator betting in New South Wales. These licences include 15-year exclusivity periods, which expire on 22 June 2013. All New South Wales race clubs also hold on-course totalizator licences on the same basis as TAB Limited.

The first part of this reform package will expand the types of events and contingencies on which New South Wales wagering operators may offer betting services. This will be facilitated by amendments to the Racing Administration Act 1998 and consequential amendments to the Totalizator Act 1997 and the Unlawful Gambling Act 1998. New South Wales is the only Australian jurisdiction that restricts the conduct of betting by its wagering operators to racing and sporting events. It is appreciated that the level of interest in betting on events such as reality television shows and film awards is not at the same level as betting on the traditional racing and sporting events. However, New South Wales wagering operators have expressed concern that they are disadvantaged in attracting clients as they are not able to offer the full range of betting products as their interstate counterparts. This impacts on their core racing and sports betting businesses.

Item [8] of schedule 1 to the bill replaces section 18 of the Racing Administration Act to extend the scheme under which bookmakers are authorised to take bets on sporting events so as to permit authorised

bookmakers to take bets on any event or contingency declared by the Minister for Gaming and Racing. Definitions and references to sports betting bookmakers, sports betting authorities and sports betting events within the Racing Administration Act are replaced with references to betting event bookmakers, betting authorities and declared betting events. Minor consequential amendments are also made to the Greyhound Racing Act 2009, the Harness Racing Act 2009 and the Thoroughbred Racing Act 1996. Most importantly, the amendments to the Racing Administration Act will carry forward the existing controls that apply to sports betting and will not enable wagering operators to have unfettered betting options. As with sports betting, the extended categories of events and contingencies on which New South Wales wagering operators will be able to operate will be restricted to those declared by the Minister for Gaming and Racing by order published in the *Government Gazette*.

Whilst the Government recognises the validity of arguments for the widening of the type of event that can be the subject of betting beyond racing and sporting events, it is not our intention to allow the conduct of betting on elections. The concerns of the shadow Minister in this area are shared and the Government will not be exercising this power to include elections as one of the events that can be the subject of betting. At the same time, concerns have been expressed at the possibility of the conduct of betting being allowed on cage fighting. The Minister already has the power to approve betting on cage fighting as this falls under the category of a sporting event. However, again there is no intention to allow betting on this activity. The Minister will also retain the power to place conditions on approvals to operate on a declared betting event; to approve rules of betting; and to withdraw approvals if considered appropriate.

The second component of this package is designed to assist New South Wales bookmakers by making it easier and more cost-effective for them to provide internet and telephone betting services to their account customers. Bookmakers are currently restricted to providing betting services from a racecourse location. This includes the conduct of face-to-face, Internet and telephone betting while fielding at New South Wales race meetings and, in the case of Internet and telephone betting only, at other times from a racecourse office. The bill amends section 16 of the Racing Administration Act to enable bookmakers who hold telephone and electronic betting authorities, such as Internet betting authorities, to also accept or make bets at approved premises that are not on a licensed racecourse.

Item [6] of schedule 1 to the bill inserts a new section 16A to provide that a controlling body of racing, namely Racing NSW, Harness Racing NSW or Greyhound Racing NSW, may approve premises in New South Wales that are not on a licensed racecourse as premises on which a bookmaker may conduct telephone or electronic betting pursuant to an authority under section 16. A consequential amendment is made to section 9 (2) of the Unlawful Gambling Act to clarify that bookmakers may only conduct betting while at a licensed racecourse when it is lawful for betting to take place or, in the case of telephone or electronic betting, as permitted under section 16 of the Racing Administration Act.

The existing legislative provisions that restrict bookmakers to offering face-to-face betting while fielding at race meetings or in a racecourse betting auditorium will be retained. I stress that there will be no lessening of the regulatory oversight of bookmaker operations under the new arrangements, as bookmakers will only be authorised to conduct Internet and telephone betting using systems approved by the relevant racing controlling bodies and the Office of Liquor, Gaming and Racing within Communities NSW. The racing controlling bodies and the Office of Liquor, Gaming and Racing will retain their existing ability to monitor bookmaker Internet and telephone betting operations. Item [15] of schedule 1 to the bill amends section 26 I (4) of the Racing Administration Act to make it clear that the powers of the police and inspectors authorised under the Act to enter racecourses to inspect bookmaker records will extend to entering approved premises under section 16A.

Section 26I (7) is amended to expand the meaning of inspector to include a person designated by a controlling body to exercise the functions of an inspector under section 26I in respect of bookmakers authorised by the relevant controlling body. Bookmakers make a valuable contribution to racing in this State. The colour and atmosphere they provide at race meetings helps boost attendances and, in turn, increases race club revenues. This initiative will enable New South Wales bookmakers to provide telephone and Internet betting services to account customers on a more regular basis without the cost and logistical problems involved in setting up an office on a licensed racecourse. The new arrangements will not detract from bookmaker on-course operations, but rather will provide an incentive for bookmakers to stay within the industry and, importantly, continue to provide betting services to the racegoing public.

The racing controlling bodies will be given the power under new section 16A (2) of the Racing Administration Act to place conditions on approvals under the section. This will provide them with the ability to

require bookmakers to field at race meetings on a minimum number of occasions. New section 16A (3) specifically provides that approved premises for telephone and electronic betting may not be open to the public. As a further measure to reduce the administrative burden on bookmakers, item [14] of schedule 1 to the bill deletes sections 26A to 26F of the Racing Administration Act. These sections provide for the constitution of a Bookmakers Revision Committee and the authorisation of bookmakers by that committee. The Bookmakers Revision Committee is comprised of representatives of the controlling bodies of racing, the New South Wales Bookmakers' Co-operative and Communities NSW.

Since the abolition of State bookmaker betting tax in 2002, the role of the committee has diminished, with its main responsibility now being the issuing of State bookmakers authorities. In practice, the committee meets infrequently to endorse bookmakers authorities issued from time to time under delegation by the Office of Liquor, Gaming and Racing. As a bookmaker is unable to conduct business unless licensed by the relevant controlling body of racing, the need to obtain a separate State bookmakers authority is an unnecessary additional administrative burden on new bookmakers and on the Office of Liquor, Gaming and Racing. The bill sensibly removes that additional level of red tape.

The final component of the reform package relates to the TAB. Item [1] of schedule 3 to the bill inserts a new section 11 in the Betting Tax Act to enable a licensee under the Totalizator Act, namely TAB Limited, to receive a refund of betting tax paid on totalizator investments by certain categories of account customers. The proposal involves reducing the totalizator commission tax from 19.11 per cent to 10 per cent in respect of bets placed by TAB Limited account customers with betting turnover of \$3 million or over in each financial year, and in respect of all bets placed by account customers residing outside Australia. The tax refund will in turn be fully passed on by the TAB to these customers as an incentive to bet in the New South Wales totalizator system. The payment of rebates to customers with high betting turnover, known as premium customers, is a widespread practice by TABs throughout Australia, including TAB Limited. This has driven significant growth in betting turnover from this segment of the market. The tax refund proposal will not replace the existing TAB Limited rebate scheme; rather, it will supplement the scheme.

Apart from attracting new business from this segment of the market, the scheme will foster loyalty from TAB Limited's existing premium and overseas customer base by reducing the risk of interstate TABs targeting New South Wales account customers with offers of larger rebates than those currently provided. Based on TAB Limited's projections, the scheme will generate additional investments that will more than compensate the Government for the reduction in the tax rate. The bill includes a number of safeguards to ensure that New South Wales taxpayers are not disadvantaged by the scheme. First, the tax refund will apply for the 2010-11 and 2011-12 financial years only, with any extension to a later financial year to be prescribed by regulation. A formal review is to be undertaken in 2012 to assess the impact of the scheme prior to any extension being supported.

In addition, there is a requirement that the refund on the taxes paid on premium and international customer investments will not reduce the total tax paid on those investments to below \$11 million in each of the 2010-11—being on a pro rata basis in this first year, as the scheme will not commence until the commencement of this part of the legislation—and the 2011-12 financial years. This arrangement will protect taxpayers if TAB Limited projections are not achieved. Finally, the amount of the tax refund payable to TAB Limited is to be determined by the Treasurer. The Treasurer will have the power to request TAB Limited to provide such information considered necessary to establish the appropriate tax refund entitlement. The refund will be paid retrospectively, after the end of each financial year, when the full amount of investments made by eligible customers and the amount of rebates paid by TAB Limited can be verified.

The bill specifically provides that an eligible overseas account customer must reside overseas for at least 11 months of the year. TAB Limited will be required to validate the overseas residence status every 12 months by providing the Government with an audited listing of qualified overseas resident customers with applicable address and totalizator betting turnover details. Separate to the wagering reform legislative proposals and other initiatives, the bill proposes to re-enforce government wagering policy as it relates to the operation of retail betting outlets. It has been a longstanding policy of successive State governments to oppose an expansion of offcourse retail betting outlets beyond those provided by a licensed TAB. This position was most recently confirmed in September last year when the Government adopted the recommendation of the Alan Cameron wagering review to maintain the prohibition on off-course bookmaker retail outlets.

I am informed that computer terminals have been installed in a number of New South Wales venues through which the public can open betting accounts, deposit funds into existing or new accounts using

credit-debit cards and place bets with a wagering operator. The view might have been taken that such a facility would not be unlawful on the basis that the activity of bookmaking is not considered to be taking place at the venue where the punter places the bet, but rather at the location where the bet is received. Schedule 2 [8] to the bill inserts a new section 11A in the Unlawful Gambling Act, which provides that a person must not make a remote access betting facility available in a public place for use by persons frequenting that place.

Under this new section, "public place" means a place that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public—whether on payment of money, by virtue of membership of a club or other body, or otherwise—and, without limitation, includes the premises of a registered club under the Registered Clubs Act 1976 and licensed premises under the Liquor Act 2007. A remote access betting facility means any device, such as a computer terminal or telephone, that is for use primarily or exclusively for betting on any event or contingency or for facilitating betting on any event or contingency. The legislation does not capture, for example, computer terminals at internet cafes or providing access to public telephones. 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.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2010

Bill introduced on motion by Mr Paul Lynch.

Agreement in Principle

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [12.45 p.m.]: I move:

That this bill be now agreed to in principle.

The Government is moving to introduce amendments to the New South Wales Building and Construction Industry Security of Payment Act 1999. The aim of these amendments is to improve security of payment for subcontractor claimants—that is, those businesses at the bottom of the contractual chain that have the least cash flow and struggle to survive when they do not receive money owed to them for work undertaken. The Building and Construction Industry Security of Payment Act has been recognised as reforming the payment practices of the building industry by providing access to speedy, low-cost resolution of disputed payment claims and stimulating the much-needed cash flow along the supply chain.

It also brings parties in dispute together sooner, thus avoiding the need to resort to formal dispute resolution processes, such as expensive court litigation. Notwithstanding these strengths, stakeholders have advised the Government that some subcontractors are finding it difficult to enforce the outcomes of adjudications of payment disputes under the Act. Payment disputes at the subcontractor level involve three key players. The first is the subcontractor themselves, known as the claimant. The second is the contractor who owes the claimant money. This person is known as the respondent. The third is the legal entity next up the contractual chain that has a contractual agreement with the respondent, known as the principal contractor.

The current Building and Construction Industry Security of Payment Act has been widely utilised by subcontractors to gain adjudication determinations for disputed payment claims. But one of the problems facing subcontractors is ensuring that the respondent—the contractor owing money—makes the payments outlined in the adjudication determination. The Government is of the view that increasing awareness of payment problems in the contractual chain can help to protect subcontractors and further improve payment performance in the building industry. That is what this bill intends to do. I shall now describe in more detail the features of these amendments outlined in the Building and Construction Industry Security of Payment Bill 2010.

Currently, if a claimant knows that the respondent is owed money by a principal contractor they must go through the court system to have those funds frozen, utilising the Contractors Debts Act. This bill establishes that a principal contractor can be required to retain sufficient money to cover the claim being made by the claimant against the respondent without requiring the subcontractor claimant to go through the courts. The moneys withheld are to be taken from any money that is, or becomes, payable by the principal contractor to the respondent. The requirement for the principal contractor to retain moneys is not an automatic requirement and can only be instigated through service of a payment withholding request.

If the principal contractor does not owe any moneys to the respondent, they are required to notify the subcontractor claimant they are no longer a principal contractor for the claim. This will need to be done within 10 business days of receiving the payment withholding request. The obligation for the principal contractor to retain money is only in force for 20 business days after the claimant's adjudication application is determined and served. If the claim is withdrawn, or if the respondent makes a payment to the claimant before 20 business days have passed, the requirement to retain moneys will lapse. The requirement also lapses if the claimant commences proceedings for the recovery of the debt under the Contractors Debts Act 1997. If the principal contractor fails to retain moneys owed as per these requirements, the principal becomes jointly liable for the amount paid to the respondent in contravention of the payment withholding request.

Importantly, any money that the subcontractor claimant recovers from the principal under this part can be recovered as a debt by the principal contractor from the respondent. This is designed to protect the principal contractor from the risk of double payment. The bill also provides protections for principal contractors in relation to their contractual payment arrangements with the respondent. If a principal is required to retain moneys as a result of being issued a payment withholding request, the time these moneys are withheld cannot be taken into account for the purposes of invoicing and payment dates. This is designed to prevent payment claims being made against the principal contractor as a result of withholding moneys under this legislation.

In some cases, subcontractor claimants are unaware of who the principal contractor is. To address this, the bill will establish a requirement for a respondent to provide information regarding the identity and contact details of the principal contractor in relation to that particular claim. While these amendments will require the principal to freeze moneys owing to the contractor, equal to the amount being claimed by the subcontractor, the proposed amendments do not provide a mechanism to assign the debt to the claimant. Debt assignment would need to be pursued through the court system under the Contractors Debts Act.

I emphasise that while these amendments will alert the principal to payment issues and the lodging of an adjudication application by a subcontractor, there will not be any additional protection for subcontractors when the principal has already paid the contractor all moneys owed. The measures outlined in this bill will go some way towards addressing the difficulties faced by unpaid subcontractors, whilst ensuring that principals will not be unduly affected. I thank the agency that has been involved in the preparation of this bill; it has done very good work in a short time frame. 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 later hour.

NATIONAL BROADBAND NETWORK CO-ORDINATOR BILL 2010

Bill introduced on motion by Mr Paul Lynch.

Agreement in Principle

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [12.51 p.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the National Broadband Network Co-ordinator Bill 2010, which will facilitate and accelerate the rollout of the National Broadband Network in New South Wales. The NBN Co, an Australian Government owned company, has already commenced construction of the national telecommunications network for the high-speed delivery of communications throughout Australia. NBN Co is currently working in a number of priority sites—known as first and second release sites—across the country, including some within New South Wales. The National Broadband Network is to be rolled out across Australia over the next eight years. The purpose of the bill is to ensure that New South Wales can get the most out of the short- and long-term economic and social benefits the National Broadband Network will deliver.

Widespread high-speed broadband is essential for the delivery of government services to the community of New South Wales, and especially for regional and remote communities. High-speed broadband can connect regional and remote offices, schools and medical centres, support high-quality videoconferencing, and provide regional doctors with immediate access to medical files. Widespread high-speed broadband is also vital for the transformation of our economy. The National Broadband Network will create new markets and business opportunities as well as new business models in the key sectors of health, education and transport.

The New South Wales Government strongly supports the rollout of the National Broadband Network. It showed its support by establishing the New South Wales National Broadband Network Taskforce to ensure the State is in the best possible position to achieve as smooth a rollout as possible. From the beginning, NBN Co foreshadowed its need to access assets with the potential to facilitate the rollout. This has been demonstrated in NBN Co's keenness to access New South Wales Government owned assets for the rollout of the National Broadband Network in the first release sites in Armidale and Minnamurra-Kiama Downs. This translated into the successful execution of facilities access agreements between Country Energy and Integral Energy with NBN Co. The Department of Services, Technology and Administration worked closely with all involved to assist the successful outcome.

To ensure the rollout continues quickly and smoothly in New South Wales, it is vital to establish a dedicated position that has the power to act on behalf of the State. It is imperative to ensure similar agreements between New South Wales Government asset owners and NBN Co are expedited as smoothly and successfully as those agreements just concluded over the first release sites. The coordinator's primary role will be to negotiate access to all New South Wales Government owned infrastructures that will be used in the NBN rollout. This infrastructure includes not only power poles but microwave towers and road, rail and river bridges.

Part 2 of the bill establishes the New South Wales NBN Co-ordinator who will be responsible for facilitating and accelerating the rollout of the National Broadband Network in New South Wales. The coordinator will have the specific functions of liaising with and coordinating the activities of government agencies in relation to their involvement with the rollout of the National Broadband Network in New South Wales. The coordinator will be the State Government coordinator for negotiations with NBN Co. The coordinator will manage complex negotiations between NBN Co and New South Wales government agencies. The coordinator will also be able to enter into contracts on his or her own behalf with NBN Co.

Part 3 of the bill provides for the establishment of a Government Chief Executives Committee, to provide advice on the exercise of functions by the coordinator. The Director General of the Department of Services, Technology and Administration or the director general's nominee will be the presiding member of the committee. Directors General, or their nominees, of the Department of Premier and Cabinet, Industry and Investment, and Transport NSW will also be on the committee, as well as the Secretary of the Treasury or the secretary's nominee. The committee will issue guidelines, if necessary, in relation to consultations the coordinator should undertake when carrying out official functions. The committee may also prepare protocols for government agencies in relation to developing and implementing agreements with NBN Co regarding the rollout of the National Broadband Network in New South Wales.

Part 4 of the bill requires government agencies to facilitate and assist the rollout of the National Broadband Network in New South Wales. The bill requires agencies to cooperate with the coordinator in relation to providing access to government assets, and to notify the coordinator of any proposed exercise of the agency's functions that may adversely impact on the coordinator's functions. Importantly, the bill authorises and empowers government agencies to exercise any of their functions for the purpose of facilitating and assisting the rollout of the National Broadband Network, particularly to comply with a request of the coordinator. The bill will allow the coordinator to request government agencies to agree to the appointment of the coordinator as agent for a government agency in its dealings with NBN Co, including authorising the coordinator to enter into contracts and arrangements with NBN Co on behalf of the government agency.

The bill provides for ministerial powers to support the coordinator in resolving, on behalf of the New South Wales Government, any contractual or other disputes. Specifically, the bill allows the Minister to direct agencies to comply with a request made by the coordinator for the purposes of facilitating the rollout of the National Broadband Network. Such directions will only be made after consultation with the Chief Executives Committee and, in the case of State-owned corporations, with the shareholding Ministers. The initiatives in this bill apply only to the rollout of the National Broadband Network in New South Wales.

Once the network has been constructed, the legislation will be repealed. The bill therefore provides a mechanism under which the functions of the coordinator are kept under review. Once the coordinator is satisfied that the Act is no longer required, he or she will provide a certificate to that effect and the Governor can repeal the Act. This bill will ensure that New South Wales realises the benefits that the National Broadband Network will deliver. It establishes a framework in which the activities of government agencies will be coordinated and jointly focused on delivering economic and social benefits for the people of New South Wales. 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 later hour.

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT BILL 2010**Bill introduced on motion by Mr Paul Lynch.****Agreement in Principle**

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [12.58 p.m.]: I move:

That this bill be now agreed to in principle.

The Public Sector Employment and Management Amendment Bill 2010 provides for two amendments to the main employment legislation for the New South Wales public service. These amendments provide greater flexibility in public sector employment, promoting public sector workforce mobility and fairness, and will benefit both employer agencies and their staff. I begin with the first amendment, to section 19. Presently when a position in a public service department is advertised internally, only staff who are either already permanent officers or departmental temporary employees of two years standing can apply for the position. A greater pool of applicants will enhance the operation of the merit principle and ensure the best person available in the agency is appointed to the position.

The bill expands the pool of applicants available for internally advertised positions within a department to include staff in the special employment division associated with that department who are employed as either ongoing or permanent employees, and also temporary employees who have been employed continuously for at least two years. For instance, the proposal will allow trades and field staff of the Forestry Commission to apply for jobs advertised internally in the Department of Industry and Investment. This change will benefit the agency and the new group of staff that is able to apply for these jobs.

The second amendment is to section 22 of the Public Sector Employment and Management Act 2002. This amendment removes the statutory bar prohibiting a public servant from challenging matters relating to either an appointment or indeed a failure to appoint to a public service position on discrimination or victimisation grounds. The amendment will apply only to future appointments. Grounds for discrimination in the Anti-Discrimination Act 1977 include age, carers' responsibilities, disability, race, sex, transgender, marital or domestic status, and homosexuality. Victimisation is where an employee who has suffered detrimental action for being a member or official of an industrial organisation may bring proceedings under section 213 of the Industrial Relations Act 1996. Departments should be required to defend discrimination or victimisation claims based on the merits of the matter and not rely on a statutory bar to prevent a case being heard.

Section 22 will still remain to protect the appointment of persons from outside the public service. Talented people who, in committing to work in the New South Wales public service, resign from their current private sector position will not lose their new public service job based on a challenge brought by a public servant. Allowing challenges to outside appointments would effectively discourage outside recruitment to the public service and lead to a view that the public service is a closed shop. This was the reason that section 22, and its predecessors, was originally introduced. Individuals in the public service should have the right to challenge decisions concerning their employment on discrimination or victimisation grounds. 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.

FAIR TRADING AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL 2010**Bill introduced on motion by Ms Virginia Judge.****Agreement in Principle**

Ms VIRGINIA JUDGE (Strathfield—Minister for Fair Trading, Minister for the Arts) [1.00 p.m.]: I move:

That this bill be now agreed to in principle.

It is my great pleasure to introduce the Fair Trading Amendment (Australian Consumer Law) Bill 2010, the final step in giving effect to far-reaching reforms of consumer protection legislation in this State and throughout

Australia. Last session this Parliament passed legislation to regulate unfair contract terms in standard form consumer contracts. When those provisions commenced on 1 July 2010, in concert with Commonwealth and Victorian laws, phase one of the national reform process was complete. Successful passage of this bill will conclude phase two.

On 1 January 2011, the new consumer policy framework envisaged by the Council of Australian Governments will be in place. This has been described as the most significant overhaul of consumer law in a generation. The last serious attempt to introduce uniform laws and reduce the level of complexity, duplication and fragmentation was in the mid 1980s, when State and Territory governments agreed to mirror the consumer protection provisions in part V of the Trade Practices Act 1974 by introducing fair trading Acts. Unfortunately, there was no mechanism in place to ensure that uniformity was maintained. During the intervening years governments of all political persuasions faced new consumer protection and fair trading issues, and communities demanded action to minimise detriment particularly for disadvantaged and vulnerable consumers.

A federal system of government can benefit from innovation in different jurisdictions to find solutions to problems, leading to better public policy and service delivery. The problem is that regulatory innovation can lead to divergence in legislation. It was against this background that the Productivity Commission held an inquiry into Australia's consumer policy framework during 2007. By the time the commission was finalising its report, the Council of Australian Governments had agreed to an ambitious regulatory reform agenda, including an enhanced national consumer policy framework. The Ministerial Council on Consumer Affairs had the task of developing a new national approach to consumer policy, based on the recommendations in the Productivity Commission's report of May 2008. In their communiqué of 23 May 2008, Ministers noted that the reforms would serve to overcome inefficiencies resulting from the division of responsibilities between Australian governments so as to deliver better outcomes for consumers and lower costs for businesses, and to more speedily tackle practices that harm consumers.

In August 2008, the Ministers agreed to a series of proposals for far-reaching consumer policy reform. In summary, the reforms involved: a single national consumer law based on the consumer-protection provisions of the Trade Practices Act, with amendments reflecting best practice in State and Territory fair trading legislation; the Commonwealth as lead legislator, with States and Territories applying the national law as part of their own laws; and enforcement of the national generic consumer law shared between the Australian Competition and Consumer Commission and the State and Territory offices of Fair Trading. In October 2008, the Council of Australian Governments agreed to this new consumer policy framework.

The Australian Consumer Law replaces approximately 20 Commonwealth, State and Territory statutes, including parts of the New South Wales Fair Trading Act. For the first time, all Australian businesses and consumers will have the same rights and obligations concerning the supply of goods and services. The national consumer policy objective, agreed by the Ministerial Council on Consumer Affairs in May 2008, is as follows:

To improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly.

On 2 July 2009 the Council of Australian Governments signed the Intergovernmental Agreement for the Australian Consumer Law. The intergovernmental agreement governs the development, administration and enforcement of the Australian Consumer Law. Importantly, it also governs future amendment of the law, so that uniformity can be maintained. The Australian Consumer Law scheme is an applied law scheme. Legislation is enacted by the Commonwealth and applied, as in force from time to time, by other participating jurisdictions as a law of those jurisdictions. The relevant Commonwealth legislation is the Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010.

Under the amendments the Trade Practices Act becomes the Consumer and Competition Act 2010 and the Australian Consumer Law is schedule 2 to the Competition and Consumer Act. All States and Territories are passing application laws—the only exception to this is Western Australia. It has been Western Australian Government practice to adopt a different mechanism so that the Western Australian Parliament has the opportunity to consider any changes to national legislative schemes before they are made. This is the case with the Australian Consumer Law. Unlike some other applied law schemes, the States and Territories have, and will maintain, an active role in the development of consumer policy and the enforcement of consumer laws. This is of particular significance to New South Wales. It is vital that New South Wales—Australia's most populous State with the largest economy—is able to influence the decision-making process when national action is contemplated.

As far as changes to the law are concerned, the intergovernmental agreement provides that any jurisdiction may submit a proposal to the Commonwealth, supported by best practice regulation documentation similar to that required in New South Wales. Any Commonwealth proposal must be similarly justified. There is a three-month consultation period, after which a vote is held. Although consensus is the preferred outcome, in the end no amendments can be introduced to the Commonwealth Parliament unless they are supported by the Commonwealth plus four other jurisdictions, including at least three States.

Before I speak in more detail about the provisions of the bill, I acknowledge the legacy that has made New South Wales the pre-eminent lawmaker for consumer protection and fair trading in Australia. Some would say that Victoria has the honour of passing the first specific consumer-protection legislation in this country, but in 1969 it was New South Wales that introduced the comprehensive Consumer Protection Act: a statute that served as the model for corresponding legislation in other States and territories, including Victoria. The Consumer Protection Act operated successfully for nearly 20 years, supplemented by industry-specific regulation and innovative laws such as the Contracts Review Act and the former Consumer Claims Tribunals Act. The Fair Trading Act was enacted in 1987 in response to the agreement to mirror the consumer-protection provisions of the Trade Practices Act. At the time it was described—in words that have a familiar ring—as a groundbreaking piece of legislation and the most comprehensive overhaul of consumer law in New South Wales since 1969.

This bill amends the Fair Trading Act 1987 to apply the Australian Consumer Law as a law of New South Wales. I can assure members that the Fair Trading Act will not disappear. Although the core provisions of the Act are now replicated in the Australian Consumer Law, we will retain those provisions that are required for the exercise of Fair Trading's other administrative and regulatory functions. The Fair Trading Act gives our State agency power to advise and educate consumers; take action for remedying infringements of or for securing compliance with all legislation administered by the Minister for Fair Trading; receive, investigate and refer complaints; and examine and research laws and matters affecting consumers.

Staff will continue to carry out these functions with respect to both the Australian Consumer Law and industry specific laws, such as those that regulate motor dealers and real estate agents. Investigators require powers to enter premises, undertake search and seizure under warrant and obtain information, documents and evidence. The Fair Trading Act powers will be retained. Consumers in New South Wales have long benefited from the legal assistance provisions in the Fair Trading Act. Subject to the approval of the Minister, such assistance may be granted to a consumer involved in legal proceedings arising out of the supply of goods or services or an interest in land. Applications must meet the threshold consideration that it is in the general interests of consumers or a class of consumers for assistance to be granted.

The Fair Trading Act will continue to provide for the establishment of the Products Safety Committee and other advisory councils. The Australian Consumer Law is generic regulation, whereas industry-specific regulation targets particular sectors. It is likely to be the preferred option when effective enforcement of generic regulation has not achieved the policy objectives, such as, the modification of trader behaviour or protection of consumers from financial loss. The Fair Trading Act will continue the specific regulation of employment placement services, funeral goods and services, and the relationship between motor vehicle insurers and repairers.

A most important part of the Fair Trading Act deals with enforcement and remedies. Although many of these provisions are replicated in the Australian Consumer Law, there are others that are particular to New South Wales and have been retained. These include the director general's power to suspend licences and the prohibition on publishing a statement that is intended to promote the supply of goods and services and makes reference to the Minister or Fair Trading officials without their consent. Also retained is the broad power to make public warning statements about unsatisfactory goods or services or unfair business practices and those who supply or engage in them.

I turn now to the provisions of the bill. Schedule 1 amends the Fair Trading Act 1987 to apply the Australian Consumer Law as a law of New South Wales and provide for the administration and enforcement of the Australian Consumer Law in New South Wales. Schedule 1 also makes consequential amendments to the Fair Trading Act. It repeals the provisions that are superseded by the enactment of the Australian Consumer Law and clarifies the interaction of existing enforcement and remedy provisions with those in the Australian Consumer Law. Existing provisions are amended to promote harmonisation and national consistency in the administration of consumer protection and fair trading laws. The bill amends section 4 to make it clear which of the definitions in the Australian Consumer Law are also to apply to the Fair Trading Act.

Section 5, which defines "consumer", is repealed in favour of the definition in the Australian Consumer Law. The definition in the Australian Consumer Law is the same as that in the Trade Practices Act. Essentially, a consumer is someone who buys goods or services that would normally be for personal, domestic or household use, any type of goods or services costing up to \$40,000, or a vehicle or trailer used mainly to transport goods on public roads. Under the Australian Consumer Law, the provisions dealing with consumer guarantees, unsolicited consumer agreements, lay-by sales, proof of transactions and itemised bills all rely on the definition of "consumer". The Fair Trading Act uses "consumer" in a generic sense. For example, one of the functions of the director general is to make general information available to consumers about matters affecting the interests of consumers. Adoption of the Australian Consumer Law definition will have little practical impact in New South Wales.

The bill amends section 9 to extend the functions of the director general to accommodate the role played by agencies in cooperative legislative schemes, such as, the joint administration and enforcement of the Australian Consumer Law. To facilitate cooperative enforcement activity, section 9A is amended to make it clear that information exchanged with other regulators can include reports, recommendations, opinions, assessments and operational plans. The bill repeals division 3A of part 2, which deals with the substantiation of claims and representations. Substitute provisions in the Australian Consumer Law provide New South Wales Fair Trading with a similar investigative tool. The bill amends the existing powers of investigators to match the enhanced suite of product safety market surveillance and enforcement powers at the Commonwealth level.

The national product safety reforms that are an integral part of the Australian Consumer Law require the Australian Competition and Consumer Commission to take a stronger role in the day-to-day administration and enforcement of the law. The existing powers in New South Wales are strengthened with respect to unsafe consumer goods and product-related services. The bill defines "unsafe consumer goods" as consumer goods that will or may cause injury to any person or a foreseeable use, or misuse, which will or may cause injury to any person, and "unsafe product-related services" as product-related services of a particular kind supplied in trade or commerce, a result of the supply of which is that any consumer goods will or may cause injury to any person or a reasonably foreseeable use, including misuse, of any consumer goods will or may cause injury to any person.

The bill amends section 19A to permit an investigator to apply for the issue of a search warrant on the grounds that unsafe consumer goods or product-related services are being supplied from premises. The investigator will be able to seize the goods or the equipment used to supply the services. New section 23D provides that if seizure is not practical, the investigator may issue an embargo notice to prevent their supply. New section 23B enables the director general to make an application to a court to authorise an investigator to enter and search premises for consumer goods that are in a person's possession for the purposes of trade or commerce and that do not comply with safety standards, or have been permanently banned or recalled, or are unsafe. The court may make an order for the destruction or other disposal of any such goods.

The bill inserts a new part 3, the Australian Consumer Law, into the Fair Trading Act. Part 3 applies the Australian Consumer Law text as it is in force from time to time as a law of New South Wales. It is to be referred to as the Australian Consumer Law (New South Wales). The existing administration and enforcement powers in the Fair Trading Act will apply and may be utilised for the Australian Consumer Law (New South Wales), unless otherwise provided. Part 3 confirms that the Director General of the Department of Services, Administration and Technology will be the regulator for the purposes of the enforcement and administration of the Australian Consumer Law in New South Wales. Part 3 also sets out the jurisdiction of the New South Wales courts and the Consumer, Trader and Tenancy Tribunal with respect to the Australian Consumer Law. The Australian Consumer Law text consists of schedule 2 to the Competition and Consumer Act and the regulations under section 139A of that Act. Part 3 provides that modifications to the Australian Consumer text by the Commonwealth may be excluded by New South Wales proclamation from having operation in New South Wales.

The provisions of the principal Act that apply the Australian Consumer Law as a law of New South Wales, and the Australian Consumer Law, bind the Crown in right of New South Wales and of every other Australian jurisdiction, but only to the extent that the Crown carries on a business. The Australian Consumer Law applied by other jurisdictions binds the Crown in right of New South Wales to the extent that it carries on a business. Part 3 provides that the Crown in any capacity is not liable to a pecuniary penalty or to be prosecuted for an offence under the provisions of the principal Act that apply the Australian Consumer Law as a law of New South Wales, or the Australian Consumer Law. A person is not liable to be punished for an offence against the Australian Consumer Law of another jurisdiction and the Australian Consumer Law (New South Wales) or to pay pecuniary penalties in respect of the same conduct.

The Australian Consumer Law comprises five chapters. Chapter 1 includes definitions and interpretive provisions about consumer law concepts. Chapter 2 contains general protections that create standards of business conduct in the market. In particular, misleading, deceptive or unconscionable conduct is prohibited and unfair terms in consumer contracts are regulated. Chapter 3 deals with specific protections in five categories: unfair practices, consumer transactions, safety of consumer goods and product-related services, information standards, and liability of manufacturers for goods with safety defects. Unfair practices include false or misleading representations, unsolicited supplies, pyramid schemes, referral selling and harassment or coercion. New South Wales provisions on false billing and dual pricing—now called multiple pricing—have been adopted. The section on consumer transactions deals with the new consumer guarantees and the harmonised national provisions regulating unsolicited consumer agreements and lay-by sales.

New to this State are best practice provisions from Victoria that require consumers to be given proof of transactions and an itemised bill, if requested, following the supply of services. Chapter 4 contains criminal offences relating to certain matters in Chapter 3 and provides for a number of defences. Chapter 5 sets out enforcement powers and remedies relating to consumer law. These include enforceable undertakings, substantiation notices, public warning notices, pecuniary penalties, injunctions, actions for damages, compensation orders for injured persons and non-party consumers, non-punitive orders, adverse publicity orders and disqualification orders. Most are already available in New South Wales, but pecuniary penalties, orders for non-party consumers, non-punitive orders and disqualification orders are welcome additions to the compliance and redress options for Australian Consumer Law contraventions. Chapter 5 also provides a defence to allegations that claims about the country of origin of goods are false, misleading or deceptive, details the remedies available under the new consumer guarantees and provides for the liability of suppliers and credit providers.

The bill inserts a new part 4 dealing with New South Wales consumer safety and information requirements. Under the Australian Consumer Law, State Ministers retain the power to introduce interim bans or recall unsafe consumer goods and product-related services, while the Commonwealth Minister has sole power to introduce mandatory safety standards and permanent bans following consultation with all jurisdictions. The bill amends the role and functions of the Products Safety Committee to align them with the Minister's powers under the Australian Consumer Law. The bill repeals those provisions that relate to safety standards, banning and recall orders that are made redundant by the Australian Consumer Law. The bill repeals part 4, which deals with product information, dual pricing, direct commerce, conditions and warranties in consumer transactions and actions against manufacturers and importers of goods. The Australian Consumer Law contains substitute provisions that maintain and in some cases enhance the New South Wales provisions. For example, mandatory information standards can now be prescribed for services as well as goods, although only by the Commonwealth Minister after consultation with the States and Territories.

Implied conditions and warranties in contracts are replaced by statutory consumer guarantees—a comprehensive set of rights and remedies for defective goods and services. They draw on the New Zealand Consumer Guarantees Act 1993, which adopts a clearer approach to the law and to the remedies consumers have. The statutory guarantees are much the same as the implied conditions and warranties, although the law simplifies the language and replaces the poorly understood concept of merchantable quality with a new guarantee of acceptable quality. Acceptable quality means fit for all the purposes for which goods of that kind are commonly supplied, acceptable in appearance and finish, free from defects, safe and durable.

The bill omits part 5, fair trading; part 5B, lay-by sales; and part 5D, pyramid selling, which are largely replicated in chapter 3 of the Australian Consumer Law. Although they are not included in the Australian Consumer Law, the bill repeals section 51A, which prohibits mock auctions, and part 5A, which regulates trading stamp schemes. Specific regulation of these practices dates from the 1970s and is now regarded as inoperative. The general prohibition on misleading and deceptive conduct is considered sufficient protection. The bill omits part 5G, which deals with unfair contract terms. Part 5G is replicated in part 2.3 of the Australian Consumer Law. The bill inserts a new part 6 that addresses enforcement and remedies. Part 6 makes a distinction between Australian Consumer Law contraventions and local contraventions, that is, breaches of the remaining provisions of the Fair Trading Act. The old part 6 contained provisions dealing with enforceable undertakings, injunctions, actions for damages, compensation orders and adverse publicity orders. These are repealed because substitute provisions are in the Australian Consumer Law.

Also repealed, because they are included in the Australian Consumer Law, are certain provisions dealing with defences and the disposal of proceedings for offences. Part 6 makes it clear that these Australian Consumer Law provisions apply to both Australian Consumer Law contraventions and local contraventions. The

old part 6 also contained enforcement and remedy provisions that apply only in New South Wales and are not adopted in the Australian Consumer Law. The bill rewrites these provisions and makes it clear that, where appropriate, they apply to Australian Consumer Law contraventions and/or local contraventions. For example, new section 64 replaces existing section 62 (2A), which provides for the imposition of a penalty of imprisonment for a term not exceeding three years for a second or subsequent offence against certain provisions of the Australian Consumer Law.

Another example is new section 71, which replaces existing section 64B and enables the director general or, with leave, a party to a standard form consumer contract to apply to the Supreme Court for a declaration that a term in a contract of that kind is unfair. New section 67 replaces existing section 64 and enables a penalty notice to be served on a person in relation to an Australian Consumer Law or local offence. The bill inserts a new part 7 to establish a New South Wales Consumer Law Fund. The equivalent law in Victoria also provides for such a fund, into which will be paid civil pecuniary penalties awarded under the Australian Consumer Law. When ordered by a court the fund will also be able to receive and distribute payments to redress loss or damage suffered by a class of persons who have not taken proceedings and are known as non-party consumers. They would be entitled to redress if the loss or damage resulted from a contravention of the Australian Consumer Law.

Currently, the director general must identify and obtain the consent of consumers when making an application for compensation orders. When contravening conduct affects a large number of consumers, this requirement is both impractical and has the potential to exclude consumers who have not yet come forward with legitimate claims. Although the director general will be able to apply for orders for non-party consumers under the Australian Consumer Law, the Australian Consumer Law does not address the question of where any monetary compensation so ordered is to be held while non-party consumers make a claim. The experience of NSW Fair Trading suggests that the establishment of a permanent fund will ensure good process and governance and will reduce administrative complexity.

Part 7 provides that money is to be paid out of the fund in accordance with the relevant court orders and may be paid out of the fund for other specified purposes, including special purpose grants for improving consumer wellbeing, consumer protection or fair trading. New section 88A deals with the relationship of the Australian Consumer Law and the provisions of other Acts. Section 88A (1) maintains the status quo with respect to contracts for recreation services under section 5N of the Civil Liability Act 2002. Section 88A (2) provides that section 101 of the Australian Consumer Law does not apply to a bill within the meaning of part 3.2 of the Legal Profession Act 2004.

The remaining provisions of schedule 1 contain consequential savings and transitional amendments. Schedule 2 amends the Fair Trading Regulation 2007 as a consequence of the enactment of the proposed legislation and, in particular, repeals certain prescribed product safety standards and product information standards that will be covered by the national scheme. By virtue of the savings provisions in schedule 1 the product information standards on fibre content labelling for textile products and petrol price boards will continue to operate in New South Wales.

This bill fulfils our commitment to participate in the introduction of a new Australian Consumer Law. The successful development of the Australian Consumer Law reflects the hard work and cooperation of many people—Commonwealth, State and Territory colleagues on the Ministerial Council on Consumer Affairs, the officials of all the jurisdictions involved and consumer and business stakeholders. Thanks are due to them all. I commend the bill.

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

PLUMBING BILL 2010

Bill introduced on motion by Ms Virginia Judge.

Agreement in Principle

Ms VIRGINIA JUDGE (Strathfield—Minister for Fair Trading, Minister for the Arts) [1.25 p.m.]:
I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Plumbing Bill 2010. At present, there are more than 100 separate bodies responsible for regulating on-site plumbing and drainage work in New South Wales under seven separate

legislative frameworks, each requiring compliance with different standards. These bodies include Sydney Water Corporation, Hunter Water Corporation and more than 100 councils, county councils, and local water utilities. Over time each of these regulators has imposed multiple requirements for plumbing and drainage work on top of the New South Wales Code of Practice for Plumbing and Drainage, the current standard to which plumbing and drainage work must comply. In short, the system is complex and fragmented, creating confusion and adding to costs for plumbers, builders, homeowners and others.

This Government is committed to reducing red tape for businesses and the community while ensuring the health and safety of all through targeted and effective regulation. That is why in June 2009 the Government endorsed the findings of the Better Regulation Office's review of the State's plumbing regulatory framework. This review recommended that NSW Fair Trading become the single regulator in New South Wales for both the on-site regulation of plumbing and drainage work and the licensing of plumbers. The review also recommended that New South Wales adopt the performance-based Plumbing Code of Australia as a single and consistent plumbing standard across the State.

The reforms in the Plumbing Bill 2010 will streamline and enhance the regulation of on-site plumbing and drainage in New South Wales and will apply nationally consistent standards across the State. New South Wales Fair Trading, which already licenses plumbers under the Home Building Act 1989, will become the single regulator for on-site plumbing and drainage work in New South Wales. This will improve compliance and enforcement by linking plumbers' licences directly to the work they perform. Separating the role of regulator from the water utility operators also has the advantage of ensuring competitive neutrality in situations where there is a potential for the entry of further competitors in the provision of water, sewerage or recycled water services.

The New South Wales Code of Practice for Plumbing and Drainage and the many local variations to that code will no longer be the standard for plumbing and drainage work in New South Wales. Instead, work will need to comply with the nationally consistent Plumbing Code of Australia—that is, the existing Australian Standard 3500 Plumbing and Drainage—or an alternative solution that meets the code's performance requirements. As well as providing a single standard for plumbing work across the State, adopting the code will allow for innovative new plumbing approaches and solutions, provided that they meet the necessary performance outcomes, including for health and safety. It will also directly position New South Wales to adopt easily the proposed National Construction Code being developed by the Council of Australian Governments, which will combine both the Building Code of Australia and the Plumbing Code of Australia into a single consistent national code.

The good news for plumbers is that adopting the Plumbing Code of Australia in New South Wales will not mean significant changes in practice, given that the vast majority of their work already complies with Australian Standard 3500 Plumbing and Drainage. What this change to technical standards means for plumbers on the ground is greater flexibility and the chance to implement innovative, technologically advanced and environmentally sustainable plumbing solutions. Such flexibility is increasingly important in the context of global warming and greater environmental awareness, when industry and consumers demand smarter, more efficient plumbing and drainage work. The New South Wales Government does not want outdated, narrow regulation to stand in the way of people doing things better, more effectively and in an environmentally sound way. In summary, this is a sensible and necessary package of reforms, which is supported by key stakeholders.

I will now detail the reforms. Specifically, the bill provides for the following: the transfer of responsibility for regulation of on-site plumbing and drainage work from water utilities, including the Sydney Water Corporation and the Hunter Water Corporation, and councils to New South Wales Fair Trading; compliance with prescribed standards for plumbing and drainage work; and a risk-based inspection regime allowing the regulator to target compliance efforts at the plumbing activities that pose the greatest risk to consumers and public health and safety.

Under the new framework, New South Wales Fair Trading will be responsible for regulating plumbing work from the point of connection to a water supply—generally the mains, a recycled water device or other water system—through to the discharge points; that is, the taps. Fair Trading will also be responsible for regulating drainage installations from fixtures—toilets and drains—to the point of connection to a sewerage system provided by a water utility, common effluent system or on-site wastewater management system. The changes will not give New South Wales Fair Trading any new regulatory responsibilities for stormwater drainage or on-site wastewater management. These functions will appropriately remain with councils and network utility operators.

Historically, the point of connection has varied across different areas of New South Wales and different water supply authorities. Sometimes it is at the mains, sometimes at the meter and sometimes at the property boundary. The Plumbing Bill does not attempt to change these arrangements but has been drafted to allow for consistent interpretation and definition of what constitutes plumbing and drainage work. Under the bill, the point of connection will be the point where the home or building owners' plumbing installation meets the water utilities infrastructure. This ensures that any work on the consumer's installation is to be done by a licensed plumber and will be subject to the requirements and oversight of Fair Trading as the regulator.

New South Wales Fair Trading will regulate on-site plumbing and drainage work through various mechanisms, including requirements for plumbers to lodge a Notice of Work, replacing the old Permit to Work system, and to provide the home owner and regulator with a certificate of compliance certifying that the work complies with the relevant standard. Importantly, the bill provides for a risk-based inspection scheme, where New South Wales Fair Trading will inspect plumbing and drainage work to ensure that it has been completed in accordance with the notice of work and does not pose a health or safety risk. Where necessary, New South Wales Fair Trading will issue rectification notices for defective work and ensure that work underway does not continue until the defects have been rectified and, in particular, health or safety risks have been addressed.

Providing for a risk-based inspection regime allows the regulator to target its compliance efforts at those plumbing activities that pose the most risk to consumers or public health and safety without imposing unnecessary compliance costs on low-risk work. For example, water reuse activities, such as grey water reuse or water recycling systems, can pose a genuine risk to public health. Any plumbing work related to these systems will be inspected. Plumbing and drainage work in areas subject to high risk of flooding or sewer surcharging will also be inspected to ensure the appropriate containment devices are in place because this can also pose a genuine risk to health, consumers and the environment. A higher level of inspections will be carried out on work by new plumbers, or plumbers who have a history of substandard workmanship, to ensure their level of competence. Again, bringing both licensing and on-site regulation under the single regulator presents clear advantages in compliance and enforcement by linking the plumber's licence to the quality of their work.

The bill also establishes a framework for Fair Trading to delegate its plumbing inspection role to councils or others with the appropriate skills in areas where it is not practical for Fair Trading to have one of its own inspectors. As well as allowing for the most efficient use of Fair Trading resources, this will allow the regulator to capture the local knowledge and on-the-ground experience of council staff in country areas around the State. Of course, as delegates of Fair Trading, these inspectors will need to interpret and apply the regulatory requirements consistently. To this end, Fair Trading will be providing extensive support and guidance for councils, including through a phone-in technical advice service for council plumbing inspectors. The rollout of the reforms to areas outside of the Sydney metropolitan area will be done in a staged process and in close consultation with plumbers, councils and water utilities. This will ensure a smooth transition to the new arrangements, and allow councils the time to put the necessary arrangements in place to support the reforms. It is anticipated that this process will be completed by late 2011.

The Better Regulation Office review of plumbing regulation also found that there was overwhelming support for the adoption of consistent technical standards across the State, including through the performance-based Plumbing Code of Australia. The current NSW Plumbing and Drainage Code was found to be inflexible and unnecessarily complex and prescriptive for industry and its users. The current New South Wales code includes more than 100 variations and additions to the Australian Standard. Some variations apply only to plumbing work in a single area of the State. Moving to the Plumbing Code of Australia should not be a difficult transition for plumbers because it is based on the same underlying technical standard as the New South Wales code—that is Australian Standard 3500. The vast majority of day-to-day plumbing work will continue to be performed to that basic standard. As is currently the case, plumbers will be required to only use authorised fittings; generally those that carry the Watermark certification.

However, the additional benefit of adopting the Plumbing Code of Australia is its in-built flexibility, which allows for new and innovative alternative plumbing solutions where they can be demonstrated to achieve the same performance, including health and safety outcomes, as the prescriptive standards. It will also be open to the regulator to authorise the use of any specific fittings required as part of an alternative solution. Again, it will be necessary to demonstrate that the fittings meet the required performance standards in that application, including for maintenance of public health and safety. This is expected to contribute to significant environmental benefits as new processes and plumbing technologies contribute to more efficient use and effective reuse of water.

Continuing with the NSW Plumbing and Drainage Code would leave New South Wales out of step with other jurisdictions that have adopted the Plumbing Code of Australia. The adoption of the new standards in the bill will also ensure New South Wales is ready to align with the national direction for plumbing and drainage regulation under the proposed National Construction Code, which will incorporate both the Building Code of Australia and the Plumbing Code of Australia. With the commencement of the new arrangements, there will be some small procedural changes for plumbers in some areas. For plumbers working in what is currently Sydney Water's coverage area—that is Sydney, the Illawarra and Blue Mountains—there will be minor changes to the administrative process for organising an inspection.

Instead of lodging an application for a permit, the plumber will submit a notice of work to Fair Trading. They will continue to use the current systems for submitting online notices through quick-check agents or a paper-based notice directly to Fair Trading. The booking of an inspection will continue to follow the current procedure, by calling Fair Trading to book the inspection time. On completion of work, plumbers will still need to provide a certificate of compliance to the property owner and the regulator. Administrative processes in areas currently regulated by local councils vary considerably depending upon the council and local approval policies in place for that area.

The bill will establish a single, simple process and make this consistent across the State. Outside of the areas covered by Sydney Water, a plumber will need to notify the local council before commencing any proposed work, and make arrangements with the council for any inspections required. In the areas covered by Sydney Water, the plumber will deal directly with Fair Trading. This does not replace the role of the local water utilities in approving any connections to, or work on, their assets. It will remain the responsibility of the plumber to seek the permission of the infrastructure owner to connect to its facility, and to comply with any connection requirements imposed by the utility.

I propose that these reforms commence early in 2011 with New South Wales Fair Trading formally taking regulatory responsibility for plumbing and drainage work in the areas covered by Sydney Water. At the same time, the Plumbing Code of Australia will apply to all new plumbing work across the State. The next stage of the reform process will then commence, with Fair Trading working closely with councils and local water utilities across the State to roll out the new regulatory arrangements by late 2011. These reforms are very important for the State of New South Wales. This bill provides the framework for New South Wales Fair Trading to be the single regulator of plumbing and drainage work in this State under a single set of nationally consistent technical standards. It is clear that this will bring obvious benefits in reduced costs, less red tape, and increased flexibility for plumbers, builders, home owners and others across the State. 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.

[The Acting-Speaker (Mr David Campbell) left the chair at 1.39 p.m. The House resumed at 2.15 p.m.]

PRIVATE MEMBERS' STATEMENTS

The SPEAKER: Order! I bring to the attention of the House a concern that I have in relation to the conduct of private members' statements. It has been brought to my notice that on several occasions recently members have made a second private member's statement during the time made available in the routine of business. During private members' statements, because there is no question before the House, making a second statement does not infringe Standing Orders 61 (1) and 64, which preclude members speaking a second time in the House, except in certain specified circumstances. Many of the proceedings that now take place in the House are limited in terms of the overall time available or by the number of members able to contribute, and private members' statements is one such proceeding.

Because of these limitations, a member speaking a second time may potentially deny another member who has not spoken the opportunity to do so. Consequently, without precluding a member from making a second private member's statement, I ask that any such second statement only be made after all other members who might wish to make a contribution have been provided with an opportunity to do so. To ensure that other members' rights are not being infringed, I would also require members to seek the leave of the House to make a second private member's statement.

BUSINESS OF THE HOUSE**Notices of Motions**

General Business Notices of Motions (for Bills) given.

QUESTION TIME

[Question time commenced at 2.23 p.m.]

SYDNEY WATER DIVIDENDS

Mr BARRY O'FARRELL: My question without notice is directed to the Premier. New South Wales Labor's decision to rip dividends out of the electricity companies has directly contributed to the 60 per cent increase in electricity prices over the past five years. Therefore, will the Premier guarantee that her decision to increase water utility dividends will not similarly increase household water bills, or once again will families have to pay for 16 years of New South Wales Labor's economic incompetence?

Ms KRISTINA KENEALLY: First, I hope I do not have to give the Opposition a tutorial on how electricity prices are set in New South Wales. Four things make up the final price of electricity—the cost of generating electricity, the cost of transmitting it, the cost of distributing it and the cost of all the services supplying the electricity from the distributors to individual homes and businesses. Electricity prices in New South Wales and across Australia are set by independent regulators, not by governments. Of course, the one exception where retail is unregulated is in Victoria; in that case, only the networks are regulated. As we are limiting ourselves to five-minute answers in question time, I would be more than happy to provide this information to the Leader of the Opposition, but as the Opposition should know, State-owned electricity companies do pay dividends to the State, much in the same way private sector companies pay dividends to their shareholders.

The SPEAKER: Order! The Leader of The Nationals will cease interjecting.

Ms KRISTINA KENEALLY: But the payment of dividends from State-owned corporations has been in place since the State Owned Corporations Act of 1989.

Mr Frank Sartor: Who was in power then?

Ms KRISTINA KENEALLY: As the Minister interjects, it is worth reflecting who was in government then. The dividend paid by State-owned companies to the State Government is used to directly fund services for the families of New South Wales, such as schools, hospitals, roads, public transport, disability services, mental health and police. This Government has increased the rebates to families who are doing it tough. This Government has increased funding for infrastructure. Indeed, we have a record infrastructure plan in New South Wales, record funding for this State and the most generous and significant infrastructure plan in Australia.

The Auditor-General's report, which came out today, discloses a strong overall performance by Sydney Water. There was full compliance with all targets in the operating licence. I welcome comments by the Auditor-General that Sydney Water has made significant improvement in reducing water losses. I am advised that through its leak reduction program Sydney Water is saving over 90 million litres of water each day and more than 30 billion litres of water each year. I am advised by Sydney Water that there was a change in accounting policy between financial years, which resulted in a lower profit in 2008-09 and a higher profit in 2009-10. That equates to a difference of \$180 million.

As all members in this House well know, Sydney Water's profits are reinvested in improved water services and infrastructure, as well as returning a dividend to the Government. That dividend is spent on new infrastructure, such as roads, schools and hospitals. I make two other comments about the Auditor-General's report today. I understand that Sydney Water is currently engaged in an extensive upgrade to its major information technology systems and while most of these projects are being delivered within the original cost, estimates of the nature of the systems mean that in some cases early budget estimates have been exceeded when the final tender prices are received.

I note that Sydney Water delivered the award-winning wind-powered desalination plant on time and under budget. The total approved budget for the project was \$1.896 billion for a 250-million litres a day plant, allowing the plant to be easily modified to produce 500 million litres a day if necessary. I want to congratulate Sydney Water on delivering a desalination plant, much-needed infrastructure, on time and under budget.

MAJOR EVENTS

Mr PAUL McLEAY: My question is addressed to the Premier. How is the New South Wales Government attracting and supporting major events over the summer?

Ms KRISTINA KENEALLY: I thank the honourable member for Heathcote for his question and his interest in this matter. We already know that Sydney is the best city in the world—as voted by Condé Nast magazines for a record-breaking ninth year in a row. We already know that Sydney has been voted the World's Best Event City for 2010.

[Interruption]

Members opposite might mock that. This city, Sydney, has delivered major events and has been acknowledged by the rest of the world. And as we look to the summer ahead, we can see why that is. Last week I was delighted to join the Minister for Major Events to launch "It's ON: December", a bumper calendar of events showing that once again Sydney is the place to be this summer. "It's ON" is a major campaign promoting Sydney and New South Wales across television, print, radio, online and outdoor media. The campaign is bold and vibrant—it will promote our iconic range of events to local, interstate and New Zealand audiences.

The "It's ON" campaign comes with financial benefits to the State of New South Wales. The campaign is expected to inject more than \$15 million into New South Wales, driving tourism and supporting our economy with an extra 18,000 visitors. The campaign will again demonstrate why Sydney is Australia's major events capital and our only global city. In fact, just tomorrow we will welcome global football icons David Beckham and Landon Donovan, who will arrive in Sydney before an exciting exhibition game in Newcastle this Saturday night. It must be said that this is just the start of a star-studded summer for Sydney.

We have a blockbuster package of events. I want *Hansard* to record that it is indeed "blockbuster"—spanning art, music, sport and entertainment, all happening here in Sydney. From Oprah to Bono, from Jersey Boys to Annie Leibovitz, from the Entombed Warriors to yacht racing, to Super V8s, there is truly something for everyone in Sydney this summer. In fact, that is just December alone. There is even something for the member for Manly. I stress this to him, because I know he has been down on Sydney's events in the past. He has been talking down the major events of this city. This is the man who suggested on his Fresh Wave blog that Sydney needed a film festival. What a great idea! Someone thought of it about 60 years ago! It is called the Sydney Film Festival! As I said, I am happy to provide the member for Manly with tickets to one of the events.

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

Ms KRISTINA KENEALLY: The member for East Hills notes that if the member for Manly ever gets around to producing an infrastructure plan, it may well include something like the Harbour Bridge and the Anzac Bridge. Such is the originality of members opposite. The member for Manly is continually on his blog talking down New South Wales. He is continually saying, "Victoria—that's where it's all at. They've got everything in Victoria. Exclusively they have Tiger Woods." Well, recent history shows that it is not all that exclusive any more.

The SPEAKER: Let's leave Mark Tobin out of the debate, please Premier.

Ms KRISTINA KENEALLY: It is all on in Sydney this December and this summer. We look forward to a bumper crop of major events here in Sydney, an injection of funds into New South Wales, and cementing this city as the best city in the world and the best festival and major event city in the world.

RESPONSIBLE GAMBLING FUND

Mr ANDREW STONER: My question is directed to the Premier.

The SPEAKER: Order! Government members will cease interjecting. The Leader of The Nationals will state his question.

Mr ANDREW STONER: Does the Premier find it acceptable that a staff member working for the Minister for Gaming and Racing, Kevin Greene, was also being paid thousands of dollars each year to be a trustee of the Responsible Gambling Fund despite having no relevant experience, or is this simply another conflict of interest in her scandal-ridden Government?

Ms KRISTINA KENEALLY: I am not aware of the situation the Leader of The Nationals has raised, but I am happy to look into it.

ALCOHOL-RELATED VIOLENCE

Mr ALLAN SHEARAN: My question is addressed to the Minister for Gaming and Racing. Will the Minister update the House on the violent issues list released today?

Mr KEVIN GREENE: I am very happy to update the House on the progress that is being made by the Keneally Government to reduce alcohol-related violence in licensed venues. As everyone on this side of the House will attest, the Keneally Government has tackled alcohol-related violence head on. We have clearly demonstrated we are serious about dealing with the problems of alcohol-related violence and antisocial behaviour in our community.

A major plank of the Government's efforts is the scheme for violent venues under schedule 4 of the Liquor Act. Round 4 of the scheme will begin on 1 December this year with the list of venues for this latest round based on incident data for the period 1 July 2009 to 30 June 2010. And the facts of the matter are plain to see: our policies are working and making a real difference towards improving safety and reducing levels of alcohol-related violence in and around licensed venues. For example, in December 2008 there were 48 level one venues. For this current round of the scheme there will only be eight. This represents an 83 per cent reduction in venues at the highest level. And, just as importantly, the number of violent incidents in these venues has fallen by more than three-quarters since the first round, from 1,250 to 265.

We are also seeing significant reductions in violent incidents at individual venues. Some impressive results are testament to effective policy and great work from many, many individual venues. For example, we have seen a 58 per cent reduction at Castle Hill RSL Club, a 56 per cent reduction at The Gaff Restaurant, Bar and Nightclub at Darlinghurst, a 44 per cent reduction at the Establishment Hotel in Sydney, and a 35 per cent reduction at the Steyne Hotel at Manly. Other impressive results include those for the Woodport Inn at Erina and the Coffs Harbour Hotel, which have both seen a reduction in incidents of 53 per cent, while incidents at Flamingos Nitespot at Goulburn, Down Under at Port Macquarie, and the New England Hotel at Armidale have been reduced by a third. In fact, 39 of the 57 licensed venues on the latest list have recorded reductions in violent incidents. This result is proof positive that the special conditions are making licensed venues and surrounding streets safer for everybody.

Round 4 of the scheme will see 29 licensed venues removed from the list. As I mentioned previously, a total of eight level one venues and 34 level two venues will now be on the list for six months from December—the lowest number in the history of the scheme. For the first time, there are no level one venues in central Sydney, with five central business district pubs and clubs classified as level two. The Government's scheme is fair and ensures there is due process, while providing real incentives for licensees and staff to prevent intoxication and violence. I am pleased that many of the premises being removed from the list will maintain some of the special conditions on a voluntary basis and introduce other measures to ensure incident rates do not increase.

While there have been good reductions in venue and incident numbers in the latest round of the scheme, there will also be 14 new pubs and clubs added to the list. This demonstrates that there is still work to be done, and the Government is getting on with that. We are continuing to work with venues and provide guidance to management to minimise the risk of violent incidents. Further security measures will be required for venues that continue to have high levels of incidents. Unlike the Leader of the Opposition, we believe that any level of violence in licensed venues is unacceptable. The Leader of the Opposition in the *Shout* industry news of 28 May 2010 stated:

How can you possibly compare venues such as Penrith Panthers with small suburban pubs?

It makes no sense treating a venue with one million people a year coming through its doors the same as one with ten thousand.

The other thing that makes no sense is Mr O'Farrell's belief that it is okay to be bashed by a booze-fuelled idiot in a large venue but it is not okay in a small venue. The Government has always been clear: one assault is one too many. It does not matter if it is in a large club or a small club. Any victim of pub violence will tell you just that.

The SPEAKER: Order! The House will come to order. Members will cease interjecting.

RESPONSIBLE GAMBLING FUND

Mr GEORGE SOURIS: My question is directed to the Minister for Gaming and Racing. Given that Clifton Wong, a staff member of the Minister, had resigned as a trustee of the Responsible Gambling Fund by email precisely three minutes before the Minister informed the budget estimates committee hearing regarding the Gaming and Racing portfolio of his resignation, why did the Minister say, "I cannot give you the exact date" when asked on what date he had resigned?

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

Mr KEVIN GREENE: I can advise that a casual member of my electorate staff, Clifton Wong—

Mr Barry O'Farrell: A casual member?

Mr KEVIN GREENE: A casual employee—

The SPEAKER: Order! The Minister will proceed with his answer. Members will cease interjecting. The Minister has the call.

Mr KEVIN GREENE: I was not aware that the Leader of the Opposition was so closely related to members of my staff. However, I can advise that a casual member of my staff, Clifton Wong, was formerly a member of the Responsible Gambling Fund. He did advise me that he was resigning from that position, and that was prior to the budget estimates. I answered the question at budget estimates absolutely truthfully, as I would always answer a question truthfully!

PACIFIC HIGHWAY UPGRADE

Mr MATTHEW MORRIS: I address my question to the Minister for Roads. What is the latest information on the Pacific Highway?

Mr DAVID BORGER: I thank the member for Charlestown for his question and for his very productive approach to Pacific Highway issues in his electorate and beyond. Yesterday afternoon I met with the Mayor of Coffs Harbour, Keith Rhoades. He is a decent fellow. We met here in Parliament House to discuss his concerns, particularly in light of the recent tragedies near Urunga. We had a sensible and considered discussion about what could be done to improve safety at that location. We achieved a lot in 30 minutes of very sensible discussion—

Mr Andrew Stoner: You are making the same mistake Joe Tripodi made a few years ago: if you lie down with dogs you get up with fleas!

The SPEAKER: Order! Members will cease interjecting.

Mr DAVID BORGER: I will have more to say on the outcome of that meeting shortly. Frankly, it is disgraceful that the shadow Minister for Roads is referring to the Mayor of Coffs Harbour as a dog in this Chamber. That is exactly what he said just now. It is absolutely disgraceful.

The SPEAKER: Order! Members will cease interjecting. The Minister has the call.

Mr DAVID BORGER: The representations of Keith Rhoades, the President of the Local Government Association and the Mayor of Coffs Harbour, were thoughtful and free of the usual prejudices we get from The Nationals on this issue. For too long now they have portrayed the Pacific Highway upgrade as a matter for Labor Governments alone but not for them. Heaven forbid that the Liberal Party or The Nationals should show their hand on this important issue. The *Coffs Coast Advocate* recently revealed the member for Oxley's real commitment to the Pacific Highway, and I quote:

The Coffs Coast Advocate asked Mr Stoner why he was unable to meet with the Pacific Highway Taskforce [on 19 November] ... The taskforce, made up of North Coast Mayors, has tried to meet with him twice now in Grafton and Sydney ...

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

Mr DAVID BORGER: I continue the quote from the *Coffs Coast Advocate*:

But Mr Stoner said he couldn't attend either meeting because of prior commitments, as he travels the State sewing up votes.

That is what the local paper said. Well, if Andrew Stoner will not meet the task force members, I will.

Today the ABC North Coast Radio repeated the calls by the independent task force for The Nationals to release a Pacific Highway policy so that the community has time to examine it and ask questions. The problem is that the member for Oxley has no policy on the Pacific Highway. No-one believes the \$5 billion in junk bonds he has started talking about will ever materialise. The new infrastructure fund that the Coalition talks about will have all the integrity of a Nigerian chain letter. The best that the member for Oxley can say on this major interstate road is: "I'm going to fix the Pacific Highway." That quote was taken from the *Coffs Coast Advocate* of 20 November.

The SPEAKER: Order! Members will cease interjecting.

Mr DAVID BORGER: How can anyone believe these empty promises when there are no policies, no costings, no money, no time frames and no budget to fix it? It is typical of the modern National Party: more interested in waxing their surfboards than talking to farmers. They are more interested in surfing than cattle, but I could be wrong.

The SPEAKER: Order! The House will come to order. The Minister has the call.

Mr DAVID BORGER: I was further concerned this morning to receive a sound file of a 10-minute interview with the member for Coffs Harbour. Is the member for Coffs Harbour over there? I cannot see him, Mr Speaker.

Mr Adrian Piccoli: Point of order: My point order relates to Standing Order No. 129, relevance. The question asked what the Government is doing about the Pacific Highway, not about interviews with the member for Coffs Harbour or anyone else.

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

Mr DAVID BORGER: I was fascinated by the interview not only for its content but from where the member for Coffs Harbour issued his challenge to inspect the Pacific Highway. Where did he make the call from, Mr Speaker? I will give you a hint: it was not here and the Queen lives there.

The SPEAKER: Order! The Minister's time has expired.

Mr DAVID BORGER: Can I ask for an extension of time?

The SPEAKER: Order! No, you cannot. Another member can ask for an extension of time.

ELECTRICITY INDUSTRY PRIVATISATION

Mr MIKE BAIRD: I direct my question to the Premier. Given that this and other market valuations—

The SPEAKER: Order! Government members will put their documents away. The member for Manly will expand on what "this" is.

Mr MIKE BAIRD: Given that this and other market valuations suggest that the State should be receiving from \$12 billion to \$15 billion for the sale of the State's generators and retailers net of any inducements, will the Premier commit today that she will not sell the assets below this price, or is the \$124 million of taxpayer's dollars the Government has already spent on the sale the next monumental waste?

The SPEAKER: Order! I call the Minister for Police to order. The Premier has the call.

Ms KRISTINA KENEALLY: The Government is committed to energy reform, which is essential to our economic prosperity and to our everyday lives. We are reforming our electricity market to attract new entrants. This will bring additional resources and competition to the electricity sector while keeping vital assets

in public hands. The poles and wires under this Labor Government will remain in public ownership. Will the Opposition commit to the same? Will the Opposition commit to the same? Their silence should be recorded by *Hansard*!

The SPEAKER: That will be difficult, Premier.

Ms Gladys Berejiklian: You have lost the plot!

Ms KRISTINA KENEALLY: Are you going to answer, Gladys? Gladys, are you going to keep the poles and wires in public ownership? She will not answer. Maybe the policy is in the bottom drawer. That is where they keep the policies that they will not tell the public about. The top drawer is for popular sound bites. The bottom drawer is for the things they will do but will not tell the people about until they are in office. Straight out of Nick Greiner's play book, and the member for Willoughby is following it to a T. The Opposition's failure to answer the question shows how little they want to say. The Leader of the Opposition sits there signing papers. He pretends to be reading. The media should take note that they fail to commit to keep the poles and wires in public ownership.

The reform process is governed by strict probity protocols and confidentiality arrangements. It is evaluated at arm's length from Government. This is designed to protect the interest of taxpayers and those taking part in the process. The Government is running a live transaction process and we will not prejudice the interests of New South Wales by speculating on media comment or transaction processes. Any announcements will be made at the appropriate time. Bids will be assessed at arm's length from Government by a committee made up of New South Wales Treasury advisers. They will assess the bids against evaluation criteria. The Government and its advisers conducted a retention value assessment as part of the energy reform process.

However, we have no intention of compromising the interests of taxpayers by communicating our price expectations to potential bidders. No matter what the failed merchant banker, the member for Manly, would have us do, we will not compromise the interests of taxpayers by communicating our price expectations to potential bidders. If I were in the market to buy a house I would love for the member for Manly to be the vendor. I would walk in and he would say, "This is how much I will take." He has no sales savvy whatsoever. While they are waving around documents, I will wave around this document one more time.

The SPEAKER: Order! Members will cease interjecting.

Ms KRISTINA KENEALLY: The Leader of the Opposition committed in 2008 to one guarantee that he would give the public—that they would have his detailed energy policy before the election. That is the one thing he guaranteed. They have published their 65 pages of platitude. There is no detailed energy policy in it. When asked today if they will keep the poles and wires, they remained silent. The member for Manly did not interject. The Leader of the Opposition did not interject. The member for Willoughby did not interject. The Leader of The Nationals did not interject. That is not the Leader of The Nationals; it is the member for Murrumbidgee. I did not recognise him without his brown suit.

The SPEAKER: Order! The member for Wakehurst has contained himself well today. He will cease interjecting.

STATE PLAN

Mr NICK LALICH: My question is addressed to the Minister for Community Services. What is the latest information on the State Plan?

Ms Gladys Berejiklian: Which State plan?

Ms LINDA BURNEY: Gladys, I would be very quiet for a while if I were you.

The SPEAKER: Order! Members will cease interjecting. The member for Upper Hunter is in close firing range. He should desist if he wants to be comfortable.

Ms LINDA BURNEY: The State Plan is a living document. It is our long-term plan to deliver the best possible services to the people of New South Wales. This is as much the community's plan as it is the Government's plan because it includes their input. We are working to deliver in partnership with our colleagues

in business, local government, the non-government sector and peak groups. As much as the Opposition wants to chatter and carry on, I will state clearly that we are serious about our commitment to transparency. The data is scrutinised by independent experts, including the New South Wales Chief Scientist, the Bureau of Health Information and the Auditor-General. Three prominent Australians sit on our State Plan Cabinet committee: John Stuckey, management consultant; health policy expert Brian McCaughan; and corporate and community expert Wendy McCarthy.

This morning the Premier, four of my ministerial colleagues and I briefed about 50 community leaders and peak groups on the 2010 State Plan performance report. It was a robust discussion. It was an exercise in complete transparency for the people of New South Wales of the Government's actions. As a community we deal with many challenges. The State Plan sets clear targets and directions in areas such as raising literacy skills for Koori children, reducing preventable hospital admissions, meeting air quality goals, and maintaining our triple-A credit rating. Progress cannot be made with vague ideas. The 2010 Performance Report is a substantial document. The report is on the State Plan website and I encourage all members to look at it. I have time to give only a few highlights today.

The SPEAKER: Order! Members will cease interjecting.

Ms LINDA BURNEY: I am very proud to say that 93 per cent of New South Wales students met or exceeded the national minimum standards in literacy and numeracy. We are meeting our targets to reduce crime. As the Minister for Police said earlier, assault rates are down by 11 per cent. In health, New South Wales has the highest percentage of patients seen within clinically recommended times—the best rate in Australia. We have sped up planning decisions. Eighty-eight per cent of Aboriginal children attend preschool. This augurs well for the future.

Of course, some targets are not being met. One of the most disturbing is the increase in domestic violence, particularly for Aboriginal women. It is appropriate that I highlight this issue, given that White Ribbon Day falls this week. The difference between that side and this side of the House is that we have a plan. More importantly, we report on our plan to the public and the community. That is more than can be said for that side of the House. I will give some details. The contents of the Opposition's policy document could fit on the back of a postcard.

The SPEAKER: Order! Members will cease interjecting.

Ms LINDA BURNEY: The Opposition members are being cynical. The State Plan 2010 Performance Report details the areas that we report on. It is an example of the Government being accountable to the community. We have a direction and a plan, and our report on the State Plan every 12 months shows that the Government is being accountable to the community.

MINING EXPLORATION LICENCES

Ms CLOVER MOORE: My question is directed to the Premier. How will the Government ensure that all exploration licences for resource extraction comply with a long-term strategic plan for mining and areas excluded from mining and that they are subject to independent environmental assessment and oversight by the Department of Environment, Climate Change and Water?

Ms KRISTINA KENEALLY: The Government rigorously assesses on a case-by-case basis all coal seam gas applications that it receives. Any assessment is based on the merits of the project and recognises the importance of considering all potential environmental impacts and risks that may arise from a particular project, including from the specific techniques to be employed. It is important to note that when compared with using coal for the same purpose, the use of coal seam gas results in very substantial savings in greenhouse gas emissions. The Department of Planning requires that all major mines and gas production in New South Wales comply with rigorous conditions of project approval. That includes any proposal to extract coal seam gas.

I am advised that some Queensland gas extraction involves the underground combustion of coal to produce the gas. I am further advised that the New South Wales Department of Planning is unaware of any situation in New South Wales where this method is used. The Government is committed to the safe development of the coal seam gas industry in New South Wales whilst ensuring that environmental and community issues are properly addressed in all projects and at all stages of the industry's development.

It is important to note that the Department of Environment, Climate Change and Water does not have a role in exploration licences but has a strong role in any subsequent part 3A planning process. During the exploration stages the Department of Industry and Investment has the lead role in issuing either petroleum exploration licences or petroleum assessment leases. I am advised that these are generally evaluated under part 5 of the Environmental Protection and Assessment Act. However, in some cases these can be evaluated under part 3A of the Environmental Protection and Assessment Act in specified local government areas within the Major Development State Environmental Planning Policy.

SCHOOL ETHICS CLASSES

Dr ANDREW McDONALD: My question is addressed to the Minister for Education and Training. What is the latest information on the introduction of ethics classes in New South Wales public schools?

Ms VERITY FIRTH: I thank the member for Macquarie Fields for his support for this fantastic new initiative. As we know, ethics classes will be available to all New South Wales public schools following the completion of a successful pilot program. The Government endorsed the ethics course after considering the recommendations contained in an independent evaluation and following strong support from the community. Following the release of the evaluation report for public comment last month there was overwhelming support for the continuation of ethics classes, with 730 submissions out of 745 community submissions received in favour of ethics classes continuing.

Despite this, as we can see from the reaction of those opposite, the Opposition says it will not support ethics classes or any complement to scripture in our public schools. The Opposition says that this is all about competing with scripture. But it is not. We have made it very clear from the beginning that ethics is a choice for parents who have already chosen not to send their child to special religious education. The Opposition argues that ethics should be offered to students. As we are all aware, ethics and values are already taught as part of the everyday school curriculum in our public schools. However, currently the only place where a more in-depth examination of ethical practice is taught is in special religious education classes. As a statement issued yesterday by the New South Wales Catholic Bishops said:

The Catholic Church has a very balanced, full SRE curriculum, which includes thorough ethical instruction for making good life choices.

If children in scripture classes are able to access thorough ethical instruction for making good life choices, why should other children miss out on such instruction? Why should other children miss out just because their parents have chosen not to send them to scripture classes or just because their school does not offer special religious education in their ascribed faith? It makes absolutely no sense. I am disappointed that the Opposition has taken such a politically opportunist line when it comes to this matter.

In addition, the St James Ethics Centre has generously offered its curriculum materials to religious organisations or any organisation that is interested in the course as part of its teaching. The message we have received loud and clear from parents is that they should have the right to choose what is best for their child. It is not up to politicians to decide for them; it is not up to the Opposition to dictate that to them. It is simply not logical for the Opposition to argue that it is unreasonable for children who do not attend scripture classes to be offered an alternative.

Our decision means that religious education will continue into the future: it is guaranteed in the Education Act. But with it comes a new choice for parents. Clearly the Opposition does not believe that it is a choice that parents have a right to have. The Opposition has already ruled out changing its position on ethics classes, even if feedback from parents is supportive.

The SPEAKER: Order! The member for Murrumbidgee will cease interjecting.

Ms VERITY FIRTH: Despite more than 700 submissions supporting ethics classes, the member for Murrumbidgee said today that he has seen no evidence that would change his mind. Who exactly is the Opposition listening to and what is it afraid of? Is the Opposition afraid of our children discussing questions such as, "Your grandmother knits you a jumper which you do not like. What do you tell her?" Is that a question the Opposition does not want our kids discussing? The claims of the member for Murrumbidgee that this has been rushed through are completely false. There has been a campaign by the Federation of Parents and Citizens

Associations for more than 10 years asking for their children to have a choice. There was a rigorous 10-week trial and an independent evaluation. The ethics course was successfully trialled across Sydney and New South Wales—in inner Sydney, rural New South Wales, the St George area and the Hills district.

Clearly, the Opposition does not want to listen to parents on this issue. It is offensive to the parents whose children participated in these trials and who have campaigned for ethics to be offered at their child's school, as is their right, for the Opposition to argue that this has been driven by political considerations. The decision to offer ethics should be up to parents and their school communities. It should not be dictated by politicians and it should not be dictated by an Opposition that just wants to score political points. The Opposition's position on this matter is an insult to parents. I do not believe the Opposition even believes its position.

DISABILITY SERVICES FUNDING

Mr ANDREW CONSTANCE: My question is directed to the Premier. Given that the 71 families forced to abandon their child with a disability—

[Interruption]

This is not a laughing matter.

The SPEAKER: Order! Government members will come to order. The member for Bega will state his question.

Mr ANDREW CONSTANCE: Given that the 71 families forced to abandon their child with a disability over the past 12 months because of a lack of funded services have been waiting more than three weeks since the Opera House rally for the Premier to give them an answer on future funding, will the Premier assure those families that she is not waiting for a media-managed event like the International Day of People with Disability to announce the future of the Stronger Together program?

Ms KRISTINA KENEALLY: I acknowledge the very good event that was held at the Opera House. The member for Bega may well have been there, but I do not recall seeing him.

[Interruption]

It is an honest statement: I do not recall seeing him there. In May 2006 this Government launched its 10-year plan for disability services—Stronger Together—to provide greater assistance for people with a disability and their families. This plan was the result of extensive consultation with people with a disability, their families and their carers, as well as a broad-spectrum of service providers and advocates.

Stronger Together delivered \$1.3 billion in extra funding over its first five years. At the rally at the Opera House that the member for Bega spoke about—and as he was there he would have heard this—over and over again we heard stories from families and service providers about what a difference Stronger Together had made in their lives. Over and over there was testimony to the work this Government has done in disability services. We are proud to have done so, because caring for those who are most in need sits at the heart of a Labor Government and it took a Labor Government to deliver such a substantial package as Stronger Together.

Major policy changes and service development have been undertaken to achieve long-term goals, including a move from services that assume a one-size-fits-all approach to a more person-centred approach. Our 10-year plan for people with a disability, Stronger Together, is reaching its halfway mark. The New South Wales Government has now commenced consultations. Indeed, an extraordinary range of consultations has been conducted across the State. The Minister and I held final roundtable consultations with key stakeholders in August. I personally invited the Leader of the Opposition and the shadow Minister to attend that gathering. I understand that the Minister invited—

Mr Andrew Constance: Point of order: I refer to Standing Order 129. The Premier has now addressed the House for almost three minutes and has not made any reference to an assurance of future funding for Stronger Together.

The SPEAKER: Order! I will hear further from the Premier.

Ms KRISTINA KENEALLY: When I launched the consultation process in Parliament House at an event involving the Minister, stakeholder groups, people with a disability, and their families and carers I gave a public commitment that this Government would deliver its plan for Stronger Together II before the end of this calendar year. I gave a public commitment when I launched the public consultation process that this Government would deliver Stronger Together II—our plan for the next five years of funding—before the end of the year. People with a disability, their carers, their families and stakeholder groups have an ironclad guarantee from this Government that it will continue Stronger Together II and that it will deliver its plan for disability services before the end of the calendar year. They knew that going into the consultations; they know that that is this Government's commitment.

The Government has at every turn sought to make this issue non-political; at every turn it has sought to include the Opposition in these consultations. It has invited members opposite to attend meetings held in various places across New South Wales and to make submissions. We want this issue to be non-partisan because it is about caring for the most vulnerable people in our community and supporting people with a disability, their families and their carers. This Government has delivered \$1.3 billion to this area. By the end of this calendar year, as we committed when we started the consultation process, we will deliver our plan for Stronger Together II.

Question time concluded at 3.15 p.m.

STANDING COMMITTEE ON PUBLIC WORKS

Report

Mr Ninos Khoshaba, as Chair, tabled the report entitled "Report on Graffiti and Public Infrastructure", Report No. 6/54, dated November 2010.

Ordered to be printed on motion by Mr Ninos Khoshaba.

PETITIONS

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

Identity Concealment Legislation

Petition requesting support for the Summary Offences Amendment (Full-face Covering) Bill 2010, received from **Mrs Dawn Fardell**.

Walsh Bay Precinct Public Transport

Petition requesting improved bus services for the Walsh Bay precinct, and ferry services for the new wharf at pier 2/3, received from **Ms Clover Moore**.

Oxford Street Traffic Arrangements

Petition requesting the removal of the clearway and introduction of a 40 kilometres per hour speed limit in Oxford Street, received from **Ms Clover Moore**.

Religious Education and School Ethics Classes

Petitions opposing the proposed ethics classes and requesting continuation of the scripture classes, received from **Mrs Dawn Fardell** and **Mr John Turner**.

Barangaroo Planning Guidelines

Petition opposing the Sydney Harbour Foreshore Authority proposal to modify Barangaroo planning guidelines, received from **Ms Clover Moore**.

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**.

The Clerk announced that the following Ministers had lodged responses to petitions signed by more than 500 persons:

The Hon. Carmel Tebbutt—Mona Vale Hospital Maternity Unit—lodged 20 October 2010 (Mr Brad Hazzard).

The Hon. John Robertson—Panania Railway Station Access—lodged 20 October 2010 (Mr Alan Ashton).

The Hon. Phillip Costa—Darling River Floodwaters—lodged 20 October 2010 (Mr John Williams).

BUSINESS OF THE HOUSE

Reordering of General Business

Mr CRAIG BAUMANN (Port Stephens) [3.15 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Kurri Kurri Hydro Aluminium Smelter] have precedence on Thursday 25 November 2010.

This motion sums up the Labor Government's neglect of the Hunter region. The Government has taken this wonderful part of New South Wales for granted for the past 15 and a half years, starving it of resources while reaping billions from local industries, only to discover it weeks out from an election and to make vague promises it cannot keep. In my electorate alone we have the Tomaree Community Hospital struggling to cope and devoid of basic services such as X-ray equipment, the Raymond Terrace HealthOne clinic that was announced in 2007 but which, after three and a half years and five different Ministers, is still gathering dust on a shelf, and the town of Medowie is crying out for a new high school but this Government claims there is no need for it. The upgrade of a dangerous road linking Newcastle to Nelson Bay was promised a decade ago but it remains, for the most part, a single-lane road and continues to miss out on funding.

It is not only Port Stephens that has been utterly neglected by this incompetent Labor Government; it is the whole of the Hunter. The situation at Kurri Kurri's Hydro Aluminium is proof of that. More than 700 people from across the upper and lower Hunter, Port Stephens and the Central Coast are employed by Hydro Aluminium at Kurri Kurri. It is the primary source of employment in the town and countless businesses and families rely on it to survive. However, this Government is happy to sit back and watch hundreds of employees from across the region lose their jobs but a town lose its main source of income. That will lead to the destruction of Kurri Kurri, and thousands more will lose their businesses and jobs.

The Treasurer said in the other place yesterday that the Opposition is indulging in "deliberate scaremongering". I will relay to the Treasurer and his equally disillusioned and out of touch colleagues one of many emails I have received from employees at the plant who are fearing for their future and their livelihood. One such person states:

I am writing to you to express my concern by the State Government to walk away from signing the contract for power for this business for the next 17 years. I am an employee who has worked continuously in this plant for 22 years. The impact for me and my family would be enormous if this plant were to close as a result, as it would be for the wider community. Please do whatever you can to persuade the minister to re enter into negotiations as soon as possible. Thank you.

The following is from another employee who lives in my own electorate:

If the smelter closes down the life of thousands of people will be affected not only in Kurri Kurri but all across the Hunter. People come from afar to work at the smelter. I know for a fact that I am not the only Port Stephens resident working here at the plant and that many workers come from everywhere around the region. Why is the Government and the treasurer ready to put thousands of Taxpayers lives at risk and make Kurri Kurri a ghost town?

According to the Government, that is also scaremongering. According to the Labor Treasurer, this is just scaremongering by men and women who are facing unemployment, who are bracing themselves for a huge drop in income and who may soon lose their homes and indeed their livelihood because of this Government's

decision. That is just scaremongering according to this Labor Government. However, before this Government considers voting against this motion, I will inform members opposite of some comments made about this issue by their own colleagues that featured in the Newcastle *Herald* this week:

Jobs are premium in the Hunter and I support the workers at Kurri Kurri's Hydro Aluminium in their dispute with Delta Electricity.

Having met with senior officials of the company earlier this week, I was informed that workers are facing job insecurity due to the non-renewal of their contract by the Government.

To lend my support to the workers, I'm urging the Government to allow the execution of the power contract between Delta Electricity and Hydro Aluminium.

That would end the dispute.

That was signed by Sonia Hornery, the member for Wallsend. An article in the Newcastle *Herald* of 11 November states:

"The State Government has engaged in 'totally unprofessional conduct' in pulling the plug on the electricity deal between one of its own power generators and the Kurri Kurri aluminium smelter," Cessnock Labor MP Kerry Hickey says.

This Government must stop treating jobs and the future of Hunter working families with such bravado and sign the power contract with Hydro Aluminium immediately.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.20 p.m.]: Let me state quite clearly: The Government is fully committed to supporting jobs in the Hunter. To listen to the member for Port Stephens one would get the impression that the Kurri Kurri smelter was going to be closing tomorrow. That is the impression he is trying to create. I make it plain that the New South Wales Government understands that, particularly where long-term investment decisions are being made, parties require certainty. The reality is that Delta is contractually obliged to supply electricity to the Kurri Kurri smelter for another seven years.

The member for Port Stephens paints a scenario about people losing their homes and mortgages being foreclosed, and all the rest of it. Many people in the community would be very happy to have seven years security, because that is the advice I have in relation to this matter. That means the smelter has seven more years to negotiate a new supply contract with any electricity company it wishes. Why the urgency of this matter today? Why is it urgent to bring forward a debate tomorrow, knowing we have quite a lot of legislation to be debated? It is all about politics. It is not about the real interests of the workers. It is not about the real interests of those who, as the member for Port Stephens states, may have their homes mortgaged or who may be looking forward to a bleak future. It is all about scoring political points.

This issue cannot come to a head for at least another seven years. That will mean not only will we have an election next year before the contract is concluded but there will be another election again before it is concluded. The Opposition is trying to make a case for urgency to debate it tomorrow. At the same time we have an issue that the Government is committed to, that we are working our way through, where contract arrangements are in place for at least seven years and it will be seven years before this matter can be resolved. Obviously, one understands with such a major matter, when a contractual arrangement needs to be entered into, that it is incumbent upon the Government to ensure that those contractual arrangements are properly observed and investigated and they are entered into with a 100 per cent degree of certainty.

The Government is at all times working to protect taxpayers' best interests. Contrary to the baseless claims that have been brought forward by the member for Port Stephens today, it is important to place on record the Government's commitment to jobs and investment in the Hunter. New South Wales is committed to working with the Commonwealth Government, using the local expertise in our regions. For example, one option discussed was using the Regional Development Australia boards to get better outcomes for people in regional and rural New South Wales. The Regional Development Australia model represents a whole-of-government approach to developing regional areas, and gives local communities the opportunity to raise the issue of regional challenges, opportunities and priorities simultaneously with both levels of government.

I could mention a long list of employment initiatives by this Government in the Hunter but I will conclude on this point instead. I give an undertaking that the Government will be doing everything it can to

ensure that the contractual arrangements so vital to the Kurri Kurri smelter and to Delta are carried out in accordance with proper processes, in accordance with proper probity and in accordance with proper procedure. There will be contractual certainty, the sort of certainty that will enable people to go forward with their employment, mortgages on their homes and future income for their families. I will not engage in the political scaremongering we have seen here today from the member for Port Stephens.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 37

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

Noes, 45

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

Pairs

Mr Fraser	Mr Gibson
Mr J. H. Turner	Mr Whan

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Business Lapsed

General Business Notices of Motions (General Notices) Nos 1124 to 1131 will lapse on Thursday 25 November 2010 pursuant to Standing Order 105 (3).

BUSINESS OF THE HOUSE**Suspension of Standing Orders: Bills**

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.32 p.m.]: I move:

That standing orders be suspended to permit:

- (1) The introduction, without notice, and the agreement in principle speeches on the Vocational Education and Training (Commonwealth Powers) Bill 2010 and the Road Transport (Driver Licensing) Amendment Bill 2010.
- (2) The resumption of the adjourned debate and passage through all remaining stages at this or any subsequent sitting of the following bills:

Building and Construction Industry Security of Payment Amendment Bill 2010;
Children and Young Persons (Care and Protection) Amendment Bill 2010;
Fair Trading Amendment (Australian Consumer Law) Bill 2010;
National Broadband Network Co-ordinator Bill 2010;
Parliamentary Electorates and Elections Further Amendment Bill 2010;
State Revenue Legislation Further Amendment Bill 2010; and
Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010.

Mr BARRY O'FARRELL (Ku-ring-gai—Leader of the Opposition) [3.32 p.m.]: Mr Speaker, I remind you that yesterday in response to a similar motion, the Leader of the House said:

The bills that will be debated this week have been before the House for quite some time. We will be debating them later today, tomorrow and also on Thursday. The bills introduced this week will be debated next week.

Amongst the many bills that the Leader of the House has just given notice of is at least one that has come to my attention today, the Parliamentary Electorates and Elections Further Amendment Bill 2010, which every member of this House is interested in. It may not be the most contentious piece of legislation that will ever come before this House but it is a bill that no member of this House has read besides me, having received it before lunchtime; and it is a bill about which no member of this House has had a chance to talk to anyone affected, including those with disability, in particular sight-affected disability.

This demonstrates that the Leader of the House will get up in the Chamber and say one day whatever suits him and the next day do the opposite. We either need rules in this place that turn it into a sausage factory—we are not quite sure what is in the things but hope at the end of the day they are going to be edible—or have a proper deliberative parliamentary process that enables members of this House, whether they are Labor, Liberal, Nationals or Independent members, to do the job that their communities send them here to do, which is consider legislation. This is ultimately meant to be responsible government. It is irresponsible for legislation to be rammed through Parliament with no chance for members to talk to anyone, let alone amongst themselves, about its impact?

This is supposed to be an accountable system of government in which private members, whether Government backbenchers or the rest of the Parliament, hold the Executive to account. How do we hold the Executive to account if we do not see the legislation? How can we hold the Executive to account if the Leader of the House comes in here, day in, day out, to ram through legislation that not only has just been introduced but has not been considered by any member of the House, let alone by interested people outside this House who have a stake in every piece of legislation, whether it is about the better governance of this State or the impact and cost it will have for business or other interest groups? As I said yesterday, my concern is whether legislation will fulfil its intended purpose.

Time and again, the Government rushes legislation through this House—regardless of whether it is at the end of the parliamentary session—only to return in the next session to fix it to make it work. The member for Wagga Wagga and the member for Murrumbidgee, the Deputy Leader of The Nationals, told me during question time about the 22 amendments proposed to the Water Act. Mr Speaker, I do not have to tell you—even though you are at the top end of the river system—of the enormous concern in the Murray and around the south-west of the State about water. Because of the incompetent water management by members opposite for 15½ years and the rapacious attitudes of Federal Government members, who were prepared to sacrifice water in New South Wales in order to try to win seats in Victoria and South Australia during the last Federal election, there is no more important issue presently confronting this State than water. There were 22 amendments circulated literally before question time that affect pages and pages of legislation. From memory, the legislation is about a quarter of an inch thick—80 pages of legislation—and we are supposed to have the information at our

fingertips and be able to consult with the New South Wales Irrigators Council, the New South Wales Farmers Association, industry, and those who grow the vegetables and food that I, for one, enjoy each day. However, we cannot do that because members opposite are incompetent. They are as incompetent at running this place as they are at running the State.

The problem is there is no end in sight until after the election next year. In the meantime, the damage being done to this State by members opposite continues to mount, such as the reckless spending decisions of recent weeks when money would be better invested in opening hospital beds or improving our schools, public transport and roads. I just heard the Leader of the House criticise the member for Port Stephens for raising an issue about which the member for Cessnock and the member for Wallsend are so concerned they have spoken out against their own Government. Yet the Government is trying to lock a future government into leases at Governor Macquarie Tower that do not expire until 2014. That is before we get to the crazy sale of electricity. This motion should be opposed root and branch. It demonstrates the incompetence of the member for Riverstone, who has been a member of this House for 30 years.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.37 p.m.], in reply: Once again, the Leader of the Opposition used up his five minutes of speaking time with political pointscoring. It is easy to score points on this issue by generalising about numerous matters rather than sticking to the facts.

Mr Barry O'Farrell: Point of order: My point of order relates to misleading the House. There can be nothing clearer than your comment yesterday and your action today.

The SPEAKER: Order! The Leader of the Opposition will resume his seat. The House will come to order.

Mr JOHN AQUILINA: The statements I made yesterday in relation to the business before the Parliament were 100 per cent accurate. The legislation we debated yesterday had been presented to Parliament in the previous week.

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

Mr JOHN AQUILINA: It was anticipated that we would debate these issues yesterday and today. We finished those items of business yesterday and so today we have to move on to consider other legislation. We have no legislation left other than one of the bills the Leader of the Opposition mentioned, the Water Management Amendment Bill 2010, about which there have been negotiations. By the way, it was introduced in Parliament in the last sitting week and has been available for a number of weeks for Opposition members and others to peruse. Indeed, the Water Management Amendment Bill 2010 is not referred to in the motion; it is not one of the bills we intend to push through. It may well be that we will deal with that bill later today—or perhaps we will deal with it tomorrow. But that is done in accordance with the standing orders of the Parliament. In other words, that bill is not an item that is included under this suspension motion.

With regard to the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010, it is not as though governments are going to rise and fall on the back of that bill, as the Leader of the Opposition would have us believe. If the Leader of the Opposition had been listening to what I have said today and on other occasions when Ministers and Parliamentary Secretaries have introduced these provisions, he would be aware that the statement is always made that if there is any particular clause in a Statute Law (Miscellaneous Provisions) Bill that the Opposition cannot agree with, the Government will agree to delete that clause from the bill. That is the undertaking that has been given. If members examine the detail, it is quite precise. It is quite different from the picture that the Leader of the Opposition attempts to paint time and again.

In relation to the other issue the Leader of the Opposition raised regarding the Parliamentary Electorates and Elections Further Amendment Bill 2010, I do not know when the Leader of the Opposition thinks we will debate that bill—which relates to provisions for next year's election—if we do not debate it today, over the next few days or next week. It is, after all, a bill that has been widely canvassed, that is well known, and that will improve voting opportunities for people who are visually impaired, people with disabilities and people who live in remote areas. The bill facilitates their voting practices. Is this earth-shattering stuff that is going to bring down a government, or is it the kind of legislation that will improve the amenity of the community we are all trying to serve? And so it is with all this legislation.

As the Leader of the Opposition well knows, there is nothing earth shattering in any of this legislation. It is legislation that is fundamental and that is in the interests of the taxpayers of this State, and as members we

can only do good for the community by getting it through the Parliament. To play political games in this place simply belittles the Parliament and the members opposite. If we are not up to being able to debate these sorts of matters now and if we are not up to being able to understand and examine the issues involved in what is relatively simple, straightforward legislation without playing political games, frankly we do not deserve to be here. These are issues that deserve our attention now, and I therefore commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 47

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

Noes, 37

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

Pairs

Mr Gibson	Mr Kerr
Mr Whan	Mr J. D. Williams

Question resolved in the affirmative.

Motion agreed to.

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY

Alcohol-related Violence

Ms TANYA GADIEL (Parramatta) [3.51 p.m.]: Today the New South Wales Government released the latest list of venues that will be subject to restrictions this summer after having too many alcohol-related

incidents. This issue requires our urgent attention. The new list reveals a dramatic drop in incidents since the last list was released in June—six months ago. When the New South Wales Government introduced the Violent Venues Scheme in December 2008, 48 venues were restricted for having 19 or more violent incidents a year. Today that number has dropped 83 per cent, from 48—

ACTING-SPEAKER (Ms Diane Beamer): Order! There is too much audible conversation in the Chamber.

Ms TANYA GADIEL: The number has dropped from 48 to 8. This is remarkable. This latest list highlights extraordinary reductions in violent incidents at individual venues across New South Wales. For instance, for the first time there are no level one venues in Sydney Central and 38 of the 57 venues on the list announced in June recorded reductions in violent incidents. Imposed conditions include lockouts, mandatory free water and food for patrons, and bans on glass and high-strength alcohol products. They are clearly making a difference. Twenty-nine licensed venues have been removed from the list after their incident rates fell below the threshold, 14 new clubs and pubs with increasing violent incidents have been added, and eight level one venues and 34 level two venues will now be on the list for six months from December—

ACTING-SPEAKER (Ms Diane Beamer): Order! Opposition members who wish to conduct a conversation will do so outside the Chamber. The member for Parramatta has the call.

Ms TANYA GADIEL: That is the lowest number in the history of the scheme. Reductions have been recorded at venues in Sydney: Castle Hill RSL Club saw a 58 per cent reduction in incidents; the Gaff Restaurant, Bar and Nightclub at Darlinghurst saw a 56 per cent drop; the Establishment Hotel in Sydney saw a 44 per cent reduction; and the Steyne Hotel at Manly saw a 35 per cent reduction. Reductions have also been recorded at regional venues: the Woodport Inn at Erina and the Coffs Harbour Hotel both saw a 53 per cent reduction, and the Down Under at Port Macquarie, Flamingos Nitespot at Goulburn and the New England Hotel—otherwise known as the Newi—at Armidale also saw 33 per cent reductions. Since the New South Wales Government introduced those tough laws in December 2008, for the quarter ended June 2010 the number of assaults on all licensed premises fell by 10.8 per cent, and the number of non-domestic violence assaults dropped 11.7 per cent in the Sydney local government area for the two years to December 2009. That is why this motion deserves to be accorded priority.

Member for Toongabbie

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.54 p.m.]: My motion deserves priority today because the hypocrisy of the Premier has reached new depths. Her recent actions shed light on exactly who is pulling her strings. Despite her promises of a new direction, it is clear that Kristina Keneally is still a puppet of Joe Tripodi and the New South Wales Labor Right. On the one hand, she is willing to endorse her dodgy mates but, on the other hand, she will not back the architect of her policy agenda and former Premier Nathan Rees as a local member of Parliament.

Ms Lylea McMahon: Point of order: My point of order relates to Standing Order No. 73. The Leader of The Nationals is making imputations about other members in this place when that should be done by substantive motion.

ACTING-SPEAKER (Ms Diane Beamer): Order! I am sure the Leader of The Nationals will state why his motion should be accorded priority.

Mr ANDREW STONER: We should debate this motion today because we have seen the Premier endorse Andrew Ferguson for a seat in the upper House despite the fact that he is facing corruption allegations—

Mr Alan Ashton: Point of order: I refer to rulings by former Speaker Kelly, Speaker Murray, Speaker Torbay, Speaker Rozzoli, Acting-Speaker Tink, and probably you, that any attack on a member of Parliament and people outside Parliament should be made by way of substantive motion. The member for Shellharbour also raised this point. The motion of the Leader of The Nationals refers to corruption allegations, which are matters to be dealt with by a court. This is not a court; this is a Parliament. The matter is before a court.

ACTING-SPEAKER (Ms Diane Beamer): Order! I shall read the motion of the Leader of The Nationals.

Mr Alan Ashton: I have the motion here. The whole motion is out of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! I am sure the Leader of The Nationals will return to the substantive motion before the House.

Mr ANDREW STONER: It is a substantive motion and if the member for East Hills wants to debate it he can. Now sit down and shut up! The people of New South Wales want this motion debated today because we have a Premier who is prepared—

Ms Lylea McMahon: Point of order: What we just saw was a demonstration of unparliamentary behaviour on the part of the Leader of The Nationals. I ask that the Leader of The Nationals be reminded of what appropriate parliamentary behaviour is.

ACTING-SPEAKER (Ms Diane Beamer): Order! The Leader of The Nationals was speaking to his substantive motion.

Ms Lylea McMahon: I believe he used the words "shut up". I ask the Leader of The Nationals to withdraw those words.

ACTING-SPEAKER (Ms Diane Beamer): Order! I am sure the Leader of The Nationals regrets using the words "shut up" and will return to the substantive motion.

Mr ANDREW STONER: They do not want to hear this. But the people of New South Wales want to know why the Premier is prepared to back certain members of the Labor Party but she is not prepared to back the architect of her policy agenda, Nathan Rees. Who can forget that he was the one who came up with the campaign finance reforms that the Premier is now claiming—although his were not quite as dodgy as the ones she has introduced? He was the one who sought the sackings of Joe Tripodi and Ian Macdonald, and implemented them, as well as some of the other things that have happened. Perhaps the Premier is not endorsing Nathan Rees, despite endorsing Noreen Hay and Andrew Ferguson and other dodges, because she is still having her strings pulled by Joe Tripodi!

Ms Lylea McMahon: Point of order—

[*Interruption*]

I cannot take my point of order when I am being shouted down.

ACTING-SPEAKER (Ms Diane Beamer): Order! The speaking time of the Leader of The Nationals has expired.

Mr Andrew Stoner: Point of order: I refer to the new standing orders. When a spurious point of order is taken and when deliberate delaying tactics, such as taking half an hour to get to the table, are displayed the Acting-Speaker has the ability to stop the clock to allow debate to continue. The Acting-Speaker should do that in future.

Question—That the motion of the member for Parramatta be accorded priority—put and resolved in the affirmative.

ALCOHOL-RELATED VIOLENCE

Motion Accorded Priority

Ms TANYA GADIEL (Parramatta) [3.59 p.m.]: I move:

That this House:

(1) congratulates the Government—

Mr Barry O'Farrell: Point of order: The member took exactly 13 seconds every time to take a point of order. The Leader of The Nationals raised an issue with you, Madam Acting-Speaker, by way of a point of order. I urge that you take the point of order away and obtain a substantive ruling. If you are not prepared to do so, I will personally raise it with the Speaker. Your behaviour and the behaviour of the member who kept taking the points of order were contrary to standing orders.

ACTING-SPEAKER (Ms Diane Beamer): Order! The stop-the-clock provisions relate to question time.

Mr Barry O'Farrell: Madam Acting-Speaker—

ACTING-SPEAKER (Ms Diane Beamer): Order! The Leader of the Opposition will allow me to finish.

Mr Barry O'Farrell: I did not know if you were going to answer my question.

ACTING-SPEAKER (Ms Diane Beamer): Order! I am sure that the Speaker, if he wants to—

Mr Barry O'Farrell: So you will not take it away?

ACTING-SPEAKER (Ms Diane Beamer): Order! I will not take it away. The Speaker can deal with it if he wants. I have made my ruling.

Mr Barry O'Farrell: You will not raise it because you are being partisan.

ACTING-SPEAKER (Ms Diane Beamer): Order! The stop-the-clock provisions relate to question time. The member for Parramatta has the call.

Mr Barry O'Farrell: How do you justify sitting in the Chair practising Labor politics rather than acting as a presiding officer? You are supposed to protect the interests of all members of the House. You did no such thing for the Leader of The Nationals during the debate.

ACTING-SPEAKER (Ms Diane Beamer): Order! The Leader of the Opposition will resume his seat. The member for Parramatta has the call.

Mr Barry O'Farrell: I would like a response from you in relation to my point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! Your point of order was that I should have used the stop-the-clock provisions. I do not have that right under the standing orders.

Mr Barry O'Farrell: That is not true. I asked you to take away the point of order raised with you by the Leader of The Nationals and bring back a considered opinion. I would urge you to obtain a considered opinion. The ruling you have made today makes a mockery of the new standing orders that have been adopted. The ruling you have made today in a partisan way demonstrates that any member who sits in the Chair can act in a similar manner. I remind you that Liberal and Nationals members sit in the Chair but they do not act in the manner that you have. You have abused the standing orders. I ask that you take away the point of the order so that the Speaker and the Clerk can provide considered advice and the Parliament will be aware of your behaviour.

ACTING-SPEAKER (Ms Diane Beamer): Order! The Speaker can give considered advice on any matters raised in the House. I did not address the issue, as I have no right to use the stop-the-clock provisions during motions to be accorded priority.

Mr Thomas George: Point of order: I thought—

Mr Ninos Khoshaba: What is the point of order?

Mr Thomas George: If the member for Smithfield would listen, my point of order is that microphones were installed throughout the Chamber so that members did not have to take a 13-second walk to the table. That money has been wasted. The member took 13 seconds to walk to the table to take a point of order. This matter needs to be clarified.

Mr Ninos Khoshaba: It wasn't turned on, Thomas.

Mr Thomas George: The Speaker is able to turn on the microphone.

ACTING-SPEAKER (Ms Diane Beamer): Order! I remind the House of two matters. I did not hear the member for Shellharbour, who was at the back of the Chamber, take a point of order. The member for Bathurst indicated that the member was taking a point of order. I could not hear because of the noise made by Opposition members. There is no point of order. The member for Parramatta has the call.

Mr Michael Richardson: Point of order: In the context of the previous points of order, I have been a member for 17 years—longer than you, Madam Acting-Speaker—and I have never seen anything more disgraceful than the actions of the member for Shellharbour in deliberately taking 13 seconds to walk to the table to take a point of order. She sat at the furthest point in this Chamber and took as long as she could to walk to the table and take a point of order. It is an absolute disgrace and it is an absolute disgrace that you did not stop her from doing so.

ACTING-SPEAKER (Ms Diane Beamer): Order! The member for Parramatta has the call.

Mr Ray Williams: Point of order—

ACTING-SPEAKER (Ms Diane Beamer): Order! The member for Parramatta has the call. There is nothing I have to rule on in terms of points of order.

Mr Ray Williams: I have taken a point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! I could not stop the member, as I could not stop the Leader of the Opposition. The member for Hawkesbury will resume his seat. The member for Parramatta has the call.

Mr Ray Williams: I ask to state my point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! There is nothing before the House.

Mr Ray Williams: I ask to state my point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! I hope the member has a valid point of order.

Mr Ray Williams: The Leader of the Opposition stated that a point of order had been raised by the Leader of The Nationals in relation to your ruling. You did not rule on that point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! I did.

Mr Ray Williams: You did not.

ACTING-SPEAKER (Ms Diane Beamer): Order! Members should listen to the Chair.

Mr Ray Williams: You did not address the point of order.

ACTING-SPEAKER (Ms Diane Beamer): Order! I did rule on the point of order. I had no ability to stop the clock. That was the member's point of order. The member for Hawkesbury will resume his seat. The member for Parramatta has the call.

Ms TANYA GADIEL: I move:

That this House:

- (1) congratulates the Government for driving down alcohol fuelled violence in pubs and clubs across the State; and
- (2) calls on the Opposition to come clean on its secret plans for pubs and clubs.

The Keneally Government has tackled alcohol-related violence head on. We have clearly demonstrated that we are serious about dealing with the problems of alcohol-related violence and antisocial behaviour in our community. Our policies are working and making a real difference. Our policies are improving safety and reducing levels of alcohol-related violence in and around licensed venues in New South Wales. It is clear: The New South Wales Government is providing real incentives for licensees and staff to prevent intoxication and violence.

Licensees know that if they record 12 or more incidents in any year special conditions will be placed on them. Incidents are reviewed by the NSW Police and then Communities NSW to ensure that they are fairly attributed to a licensed venue. The two-tiered approach examines each incident to confirm that it is alcohol-related, occurred on or near the licensed premises and was linked to the venue and its patrons. We are continuing to work with venues and provide guidance to management to minimise the risk of violent incidents. *[Quorum called for.]*

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

Mr GEORGE SOURIS (Upper Hunter) [4.06 p.m.]: I speak on behalf of the Opposition to the motion before the House. I take issue with both parts of the motion, that is, firstly, the Government congratulating itself on its performance in driving down alcohol-fuelled violence in our State and, secondly, the Government calling on the Opposition to come clean on secret plans for pubs and clubs. We certainly have plans, but not secret plans. I am surprised that the Government believes it has done a good job in driving down alcohol-fuelled violence. According to statistics, venues that remain on level one have all exhibited substantial increases in the number of incidents from December 2009 through to June 2010 and December 2010.

Without naming the venues, the statistics show that the leading venue has gone from 39 incidents in December 2009 to 53 incidents in June 2010 to today's announcement of 62 incidents. The second venue in the same category has gone from 35 to 46 to 61. The next venue has gone from 19 to 21 to 28. Incidents at the listed venues have gone from 14 to 17 to 20, 9 to 16 to 22, 19 to 14 to 20, 17 to 22 to 29 and 18 to 17 to 23. The Government is relying entirely on categorising venues according to the number of incidents, publishing a list and applying conditions to each of the venues on a formula—whether it is the adoption of plastic cups, a 2.00 a.m. lockout or 10-minute shutdowns on the service of alcohol. The Government has no further interest in the issue, it does not implement any further measures and that is the end of the story.

It is fairly obvious that when a venue passes 19 incidents of assault—particularly if that venue is substantially beyond 19, as, for example, the leading venue I just mentioned with 62 incidents—obviously there is no incentive for that venue to reduce the number of assaults. If the number of assaults is well past 19 nothing more happens to that venue than what happened when the venue passed the 19 mark. Consequently, it may not matter to that venue whether it has 60 to 72 next time or whether it has 82 next time. Those are the exact circumstances that the Opposition has sought to come to grips with. The Opposition's plans address what to do from that point onwards with venues that persistently breach the conditions and seem to have no interest whatsoever in bringing down their own statistics.

Before I move on to the Opposition's policy I point out that it seems very strange to me that from the day that the list of 48 was first published and applicable on 1 December 2008, about two of those venues remain on List 1. It seems to me extraordinary that over those three measurement periods both List 1 and List 2 have seen substantial reductions and, indeed, a disappearance of names from the list itself. It suggests to me that either in the earlier days the propensity for venues to self-report incidents has dropped away or that there are very good ways of ensuring that a venue is not on the list and making sure that a venue does not end up with these statistics.

The venues that exceed 19 assaults obviously are not taking any further measures and the Government also is not taking any further measures. So what would one do beyond that point? That is the focus of the Opposition's policies in relation to alcohol-fuelled violence. To say that the Opposition has gone soft in any way would be to completely misrepresent the case. I believe that the Government's strategy of a list and naming venues and relying on a set range of conditions leads eventually to failure because it is a rigid system; it relies only on publication of the list and it has no measure beyond that point. The Opposition says—and we are very proud that this is our policy—that we will introduce beyond that point a three-strikes policy. There will be an independent committee and ultimately the decision on what action to take against a venue will be made by a magistrate sitting as a tribunal.

I also mention that the Office of Liquor, Gaming and Racing has given up completely on on-premise audits. Inspectors from the Office of Liquor, Gaming and Racing are reduced to doing desk audits only and audits on the Internet from a home base. That is disgraceful. If the police or the Office of Liquor, Gaming and Racing believe that a venue's statistics are getting out of control—and there may be other factors such as persistent breaches in the responsible service of alcohol—they may make application to the tribunal of a magistrate for a strike, a second strike or a third strike.

For a first strike the magistrate may determine that further measures may apply to that particular venue for which the application has been made. For a second strike, the determination may well also include a period of suspension of the licence. A third strike, will involve a mandatory loss of licence permanently, which would have an avenue of appeal to a judge sitting in the District Court but it would demonstrate the complete and utter seriousness of the Liberals and Nationals to come to grips with alcohol-fuelled violence with a very strong plan of what to do with these venues if they persistently disregard the existing system. It is a very strong and proud policy and it takes the debate further, while the Labor Party rests on its laurels on what is basically a failed system.

Mr RICHARD AMERY (Mount Druitt) [4.13 p.m.]: I speak in support of the motion moved by the member for Parramatta, although I put on record my disappointment at the Opposition's performance in taking so many points of order on a matter not related to this matter before the House, in order to prevent the member for Parramatta from raising many important issues about what is an extremely important debate in the community. The behaviour of the Opposition was disgraceful and designed only to eat up the time of the member for Parramatta. I hope that when she speaks in reply she will raise many of the concerns that she was denied the opportunity to raise earlier.

The performance of people engaging in alcohol-fuelled violence is a disgrace. Nearly every night on television we see appalling behaviour by people at all hours of the evening taking part in violent activities outside licensed premises. The police have been put in a very difficult situation and the community has responded to the debate on this issue. There are two extremes of views in the community debate. The first extreme is those people who like to think that the solution to this problem is to overly restrict the trading hours of licensed premises—that is, by bringing back the early opener: opening at 6.00 a.m. and closing at 6.00 p.m. or 10.00 p.m. But that does not recognise the real world. The other extreme of the debate is the idea that people should be able to drink and do what they like when they like, which has brought about many of the problems we now face.

The Government has a clear policy, and it is not only a policy that will be implemented after the election but one that is in operation now. The details outlined to this House by the Minister for Gaming and Racing earlier today is a clear indication that the Government is working with the players in the industry to resolve the issue. The member for Upper Hunter should be embarrassed about the performance of the Leader of the Opposition in trying to explain the Opposition's policy on this matter. It is an unclear policy. The member for Upper Hunter tried to explain the Opposition's policy. I listened to every word and I still do not understand what the Opposition's policy is all about, and no wonder.

We should not blame the Opposition for not having a clear policy just on alcohol-related violence because in one afternoon it has failed to give us a clear policy on whether we will have public or private ownership of the poles and wires for electricity, and the Opposition has issued a so-called policy document, referred to by the Premier, that does not have an energy policy. In this debate the Government has asked what the Opposition's secret plan is to deal with large clubs in favour of small clubs and hotels and so on. The spokesman for the Opposition has failed again to articulate an argument. In other words, we cannot believe that lot opposite. The Opposition obviously has some views about how the very large clubs will be treated because that has been highlighted.

The member for Upper Hunter mentioned statistics. As outlined by the Minister for Gaming and Racing, the figures speak for themselves. Round four of the violent venues scheme will begin on 1 December this year, with the list of venues for this latest round based on incident data for the period 1 July 2009 to 30 June 2010. In December 2008 there were 48 level one venues listed. For this current round of the scheme there will be only eight. The member for Upper Hunter is saying that we are not making progress. What is wrong with a practice by the Government of having people from local government, people from the Office of Liquor, Gaming and Racing and the New South Wales Police identifying problem areas where the violence is and where the threats to the police are and, in the next round of the process, working with those clubs to resolve the issue? I believe the Government's position is clear. But, again, we are still unclear about what the Opposition has in its bottom drawer as far as a policy document on this issue.

Mr GEOFF PROVEST (Tweed) [4.18 p.m.]: I take this issue seriously and I support the shadow Minister for Gaming and Racing, the member for Upper Hunter. Unlike most other members of this place, I have been a liquor licensee in some large clubs. Given that, I take particular offence at the member for Mount Druitt's bashing clubs once again. I spent 27 years in the hospitality industry, and 17 years of those years as a liquor licensee, including at the fabulous Revesby Workers Club, which was established by hardworking members of the community, and the Tweed Heads Bowls Club. I have watched this Government pat itself on the back despite the fact that it simply bashes clubs and hotels. The scheme that it has implemented has different

levels and, as the member for Upper Hunter pointed out, once a club or hotel has had 19 alcohol-related violence incidents it has no incentive to change. That simply exacerbates the situation and people have worked out ways to get around the scheme. The member for Upper Hunter's three-strikes proposal clearly addresses that issue.

I have addressed many questions on notice to the Minister for Gaming and Racing about the granting of liquor licences, in particular in the Tweed. I have also met with members of the Police Association and the local licensing sergeant—the officer in charge of issuing licences—and they tell me the same thing every time I meet with them. They complain that they regularly suggest to the Government various restrictions that should be placed on the liquor industry. They are in a good position to make those recommendations because they are out at the coalface every day of the week and they see what is happening. I asked the Minister whether those recommendations were considered and included when a liquor licence is granted and he replied that they were. However, the Police Association has documents demonstrating that that is not the case. That cannot go on; we must support our police officers in the execution of their duties.

This Government has implemented a rigid scheme that does not differentiate between large and small venues. I have worked in a small venue, but I have also worked in venues that have 15 or 16 bars. The Government's scheme does not address issues such as cross-border problems and alcohol-related behaviour that has been imported from elsewhere. It also does not have the support of the industry. I have heard members opposite criticise hardworking club managers. They even had a go at Terry Condon, the chief executive officer of the Club Managers' Association Australia. They have attacked the people best able to handle this issue. I commend the member for Upper Hunter for visiting these venues. Have members opposite ever bothered to visit a venue at 3.00 a.m. with their local police officers? Have they accompanied them on a tour of duty on a Friday or Saturday night? Have they spoken to police officers on the beat who must deal with these liquor-related issues? I have; I do it every three months.

The Government must offer some solutions. Members opposite should not be polishing their seats. We do not need this rigid, one size fits all scheme. As I said, I worked for 17 years as a liquor licensee, during which time I conducted myself well—I have never been convicted of any offence as a licensee. I worked well with the local police, particularly at Bankstown, in an effort to curb under-age drinking and alcohol-related violence. Every member on this side of the House is strongly opposed to alcohol-related violence. I live adjacent to the Gold Coast and we are now experiencing schoolies week, which causes many issues in the local community.

The member for Upper Hunter's three-strikes proposal is a targeted and tough approach to persistent offenders. The Government should consult with the industry because a one size fits all scheme will not work. Peak bodies such as the Australian Hotels Association and ClubsNSW and licensed restaurant operators are strongly opposed to violence and they will work diligently to eradicate it. However, they need the appropriate tools and they must be involved in consultations about a proper planning process. The Government's scheme does not allow for that. This scheme is yet another demonstration of this Labor Government's inept administration.

Ms TANYA GADIEL (Parramatta) [4.23 p.m.], in reply: Members on this side of the House have always been clear that one assault is one too many. It does not matter whether it happens in a large club or a small pub. Any victim of pub violence will confirm that. It does not matter whether one is at the Parramatta Leagues Club, the Roxy, the Tollgate, the Rose and Crown or the Albion, assault is completely unacceptable. The size of the venue is irrelevant.

The contribution of members of the Opposition to this debate was extraordinary. Government members were concerned that the Leader of the Opposition was not taking alcohol-related violence seriously. The reality is that he does not. That was demonstrated by his behaviour today when he took spurious points of order and continued to allow other members opposite to do the same. He even called for a quorum. The Opposition did not want to debate this issue today. Since the violent venues scheme was implemented almost two years ago the Leader of the Opposition has remained virtually silent on the issue of alcohol-related violence. Now, especially after his performance in this Chamber today, the people of New South Wales know that he is not serious about it. What a slap in the face for the people of New South Wales.

Our community, families and friends deserve to be able to have a fun night out and to be safe. That is why this Government has introduced these tough measures to curb violence and antisocial behaviour at venues with a record of bad behaviour. We will not tolerate any antisocial behaviour in any pub, club or bar, regardless of its size. That is this Government's policy. The Leader of the Opposition does not seem to understand that an assault is an assault no matter where it occurs. What matters is the damage, both physical and psychological, inflicted on victims of these crimes. The fact that the Leader of the Opposition believes that alcohol-related violence is okay in a small venue demonstrates how completely out of touch he is with the community.

The New South Wales Government's approach is to implement a tough stance targeting licensed venues with a history of violence and making our pubs, clubs and surrounding areas safer for everyone. It is time that the Opposition stopped flip-flopping on this issue. It should stop treating the people of New South Wales with contempt and open the bottom drawer and come clean about what it would do to protect the community from drunken behaviour. This motion provided members opposite with the opportunity to debate this issue sensibly and to talk about what has been happening, what initiatives have been implemented and whether they are working. Instead, as usual, they indulged in petty politics. Their behaviour demonstrates that they hold this place in contempt.

The Keneally Government is tackling the issue of alcohol-related violence head on, as it should—it is what the community expects. One assault in any venue is one assault too many. People have a right to feel safe and protected when they have a night out with their mates. It does not matter whether they go to a large or small venue, any violence is completely unacceptable. The Leader of the Opposition has made comments about this in the *Shout*, the industry news, as mentioned in question time earlier today. His view is:

How can you possibly compare venues such as Penrith Panthers with small suburban pubs?

It makes no sense treating a venue with one million people a year coming through its doors the same as one with ten thousand.

Opposition members have just reiterated that they have exactly the same view. It is not a view shared on this side of the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 47

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

Noes, 37

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

Pairs

Mr Gibson
Mr Whan

Mr Fraser
Mr Kerr

Question resolved in the affirmative.

Motion agreed to.

ACTING-SPEAKER (Ms Diane Beamer): Debate on the motion accorded priority having concluded, in accordance with the resolution of 23 November 2010 the House will now consider Government business.

WATER MANAGEMENT AMENDMENT BILL 2010**Agreement in Principle**

Debate resumed from 11 November 2010.

Ms KATRINA HODGKINSON (Burrinjuck) [4.37 p.m.]: I lead for the Opposition in debate on the Water Management Amendment Bill 2010. The bill has been brought on by the Government with great haste at this late point in the proceedings, complete, as the Leader of the Opposition said, with two pages of amendments. I indicate that I accept the amendments that the Government has issued today, as they were brought forward at my request for reasons I will outline this afternoon.

I thank the Minister for Water and his staff for being approachable in relation to this matter. I acknowledge that every time I have put in a request for information in relation to the bill—despite the fact that it has been brought on in haste, despite the fact there has been huge lack of community consultation, and despite the fact that stakeholders have been irate, knocking down my door and I am sure the Minister's door as well—the Minister and his staff have been extremely amenable when I have had a concern or an inquiry. I mention, in particular, David Halliday, Tim Holden and others. They have come straight back to me with a response. I am the shadow Minister for this portfolio, so I am grateful.

However, that does not take away from the fact that this legislation is being rushed through this place at this late stage of the parliamentary session. It is an enormously complex piece of legislation and it should have been given a lot more consideration. A draft exposure bill should have been given to stakeholders well in advance. Concern has been expressed about the bill. We have been told the bill must be rushed through because Parliament will rise in the next week or two and will not resume until several weeks after the State election on 26 March 2011. It is difficult to debate the bill from the Minister's agreement in principle speech, which is the normal practice, because of the number of amendments to it.

However, I will outline briefly what the legislation was to achieve and now seeks to achieve. In doing so I reflect on concerns raised earlier by the Leader of the Opposition that, despite the fact I put in the request for specific purposes access licences [SPALs] to be eliminated from the bill, I saw these amendments for the first time this morning. We were told the bill would not come on before tomorrow night and we would have sufficient time to double-check and triple-check that the amendments reflect the bill's intent.

In the limited time I have had available since receiving the amendments I have done my best to verify that the amendments reflect our original request. I have asked two industry groups to revise the amendments but as yet I have not received a reply. They may not have had time to check the amendments. I trust that the Minister has made every effort to ensure that what I have asked to be deleted from the bill so that the Opposition will not oppose the bill has been double-checked and triple-checked by government and departmental legal teams. I hope all the i's have been dotted and the t's crossed, and that if anything arises during the debate or in subsequent days it is corrected before the Parliament rises. I ask the Minister to give me that guarantee.

The Water Management Amendment Bill 2010 amends the Water Management Act 2000. In its original form there were three primary points. One was to modernise the governance arrangement for shared water supply infrastructure by bringing private bodies such as irrigation boards, drainage boards and water trusts under the umbrella of private water corporations, consolidating their functions into a single governance structure and reducing the amount of government regulation of decision-making and management of private water infrastructure. The second was to streamline arrangements to provide water access licences for environmental

purposes arising from water efficiency projects and to ensure that this water is properly accounted for and to enable a \$221 million Commonwealth-funded metering program. The third and most controversial point—one I had concerns with when I first heard about it—was to introduce and to allow trade in specific purpose access licences, including those held by utilities and stock and domestic licences and to streamline the arrangements to provide water access licences for environmental purposes arising from water efficiency programs.

I will go into that in more detail. It appears from the limited time I have had to consult that specific purpose access licences are the chief cause of concern to stakeholders. The bill was introduced on Remembrance Day and was seen as a controversial piece of legislation. I will place on record some comments from industry organisations that I have consulted with. I have consulted with the New South Wales Irrigators' Council, Australian Water, Coleambally Irrigators, Gwydir Valley Irrigators Association, Irrigation Australia, Southern Riverina Irrigators, Jemalong Irrigation Limited, Lachlan Valley Water, Murray Irrigation, Murrumbidgee Irrigators, Murrumbidgee Valley Food and Fibre Association, Hunter Valley Water Users Association, Murrumbidgee Private Irrigators, New South Wales Farmers Association, Riverina Citrus, Namoi Water, Western Murray Irrigation and Bungunya Koraleigh Irrigation Trust. The New South Wales Farmers Association stated:

The broad aim of the policy change to provide an incentive for private investment in savings appears to have merit;

Red tape issues are significant for farmers, and actions to improve administrative efficiency are welcome;

That the association supports the proposed amendment to require mines to obtain licences for water lost, or otherwise consumed, through mining activities; and

Finally that the association accepts the need to work in the area of categorising and accounting for environmental water.

First and foremost, the association is concerned about the lack of consultation and the rushed timeframes that have surrounded this proposal. Stakeholders were provided with a one-page outline describing four objectives to be achieved via the amendments, yet no stakeholder was (to our knowledge) able to make comment on the 99 page Bill prior to it being introduced to the Parliament.

Such a broad suite of amendments to legislation that underpins the water access licensing framework in NSW requires far greater engagement and consideration of potential impacts, be they desired or unintended. On that basis alone the association cannot support these amendments.

The Minister is aware that the response of the New South Wales Irrigators' Council was much blunter. The chief executive officer, Andrew Gregson, wrote to me shortly after the legislation was introduced and stated:

This is to let you know that my instructions from my Council are very clear—oppose this bill with all that we can muster.

We have advised the government that two weeks is grossly insufficient for industry consideration. They have not provided us any valid reason for the ridiculously short time frame.

We have advised them of our position—withdraw the bill or we will actively lobby to have it defeated.

I have listened to industry over the past few days that we have had to consider this bill; indeed, not just industry groups but individual farmers whose views sometimes differ from their industry body. I have also conducted extensive negotiations with the Minister's office. Once again I thank him for his time in allowing me to do that and for the gentlemanly way in which he acted in relation to those negotiations and for introducing the 23 amendments, all of them removing parts of the original legislation about which I had such grave concerns. Had these amendments not been put forward or if they had been defeated by the Government, we would have opposed the legislation. We would have made sure that it was not successful, so unpopular was the third tranche of the legislation.

The need to modernise the governance arrangements for shared water supply infrastructure has been desperately sought for more than two years by many people who are members of private water trusts. I have dealt with many of them to help them bring their concerns to the Government's attention. I have received correspondence from Mr Paul Munro, a member of the Bungunyah Koraleigh Irrigation Trust, who wrote to me in June this year and stated:

This e-mail is in reference to the continued inability of the NSW government to finalise the implementation of the water market rules in relation to trusts.

Currently we ratepayers of the Bungunyah Koraleigh Irrigation Trust find ourselves still in an untenable position of paying pro rata rates on water that is to be transformed, and the trust is fully aware of this fact, yet continues to hide behind the fact that the government has not had its amended rules passed through the NSW Parliament.

These rules I believe were supposed to be aligned with Federal water market rules about 2 to 2 1/2 years ago. Surely Minister Costa could make this a priority after such a long period of time.

Numerous members of our trust have stranded water assets that we cannot dispose of to reduce debt levels and the non-functioning rules combined with intransigent local Trustees are continuing to create unnecessary hardship.

For people to say they are working on it appears to be very much like the old story of the man attempting to push the big gum tree over—he might have expended energy all day but has achieved nothing.

I am hoping you can push this matter along at a higher level and possibly embarrass or shame someone into doing something to solve our problem.

I know that the member for Murray-Darling and the member for Barwon have been extremely concerned about this matter as well. I received an email from Mr Lachlan McKenzie of Growtek Pty Ltd, also a member of the Bungunyah Koraleigh Irrigation Trust. He wrote:

... I felt the need to once again ask that you ... ensure that those of us that have been locked up in private irrigation trusts have the same opportunity as others and utilise our water as an asset, rationalise lower security water products in order to purchase higher security products and all other opportunities that those who have water access licences in their own right are able to utilise.

The incompetence of Minister Costa to not have this completed when the federal reforms took place after he signed an intergovernmental agreement to ensure he would have inflicted a great deal of hardship for both those wanting to exit industries but also those of us who want to remain as irrigators as obviously exiting irrigators are not supportive of investing in infrastructure, meaning for two years we have simply fought while opportunities [and] funding pass us by.

I also bring to the attention of the House a letter I received from Mr Jeff Saville, another member of the same private water trust. He wrote to me as follows:

Due to the lack of water and poor market conditions in recent years, the debt level that my farming business (wine grape and vegetable) carries has risen to a crippling level, which made it very difficult for me to see a future in farming. Several years ago I made a decision to sell the farm but due to the prevailing conditions in this industry, viticulture and horticulture, I was unable to secure a sale.

Knowledge of the water market rules then became public, with this new legislation it would enable me to sell part of my water to reduce debt. Researching and following the water market rules closely, the information I received from the NSW government stated quite clearly that Minister Costa had everything in place to accommodate for this new federal legislation. With this assurance I removed low value crops from my farm, more than twelve months ago. I have retrained using my own resources (not government funded) in anticipation of said changes.

The fact that Mr Costa's office, in its failure to have NSW legislation amended, as was stated as complete in 2008, has put my family in a position of crippling debt with assets that are virtually locked away until this legislation is corrected, but these assets still incur ongoing costs. I am led to believe that the amendments to this legislation have been written and through yet more failings of Mr Costa's office, is yet to be presented to parliament.

During the time that this legislation has stopped the water market rules being enforced in NSW, I have missed all the government water buy back schemes and the value of water has fallen dramatically.

The correspondence from these three irrigators dramatically highlights the urgent need for part of this legislation. It also highlights the pain and suffering they have endured because the legislation has not been brought before the House much earlier. However, in its rush to get legislation through before the end of this Parliament, the Government has tacked onto the bill significant other changes to the Act, none of which have been discussed with industry in any way, shape or form. I have already detailed the comments of the New South Wales Farmers Association. The New South Wales Irrigators' Council wrote to me as follows:

The government has failed to consult with industry over changes to the very foundation of water access licences.

NSWIC, its members, those that it seeks to represent and the communities that our business support were not provided with draft legislation prior to it being tabled in the Parliament.

NSWIC does not necessarily agree or disagree with any of these aims. NSWIC does not necessarily agree or disagree with the means suggested in the Bill to achieve any of these aims.

Neither NSWIC nor any other stakeholder has been provided with remotely sufficient opportunity to consider the wide ranging ramifications of the Bill. The Bill is some 99 pages in length. It seeks to amend multiple sections of the Act. It will fundamentally affect the way in which water is governed and managed in NSW. It is clearly a matter worthy of consideration, discussion and debate. It is a subject far too important to ram through the Parliament in two weeks, without prior consultation. NSWIC and its members need to take, consider and respond to legal advice. The timeframes available to do that are grossly insufficient.

I must compliment Andrew Gregson of the New South Wales Irrigators' Council for his dedication to the cause. He is a great activist for irrigation in New South Wales. Access to water for stock and domestic use and riparian rights are two of the most fundamental basics of farming. If you want to get a farmer upset, try restricting or

changing his access to water, particularly if he or she is fortunate enough to have a permanent watercourse through his or her property. In its original form this legislation did just that. It would have allowed trading stock and domestic licences. While this is a proposal worthy of discussion with the industry, no discussion was undertaken. During the many consultations I have had with all the stakeholders, that aspect has been emphasised to me time and again. No detailed discussions have been undertaken in relation to that. The tradability of stock and domestic licences simply had to go, and so it has.

The first amendment that has been circulated removes items [12] and [13] of schedule 2, which relate to the removal of domestic and stock rights over land or water of the owner or occupier of the land if the Registrar General makes a recording on the title of the land to the effect that it is not subject to domestic and stock rights. We could not support this, because the Government was basically asking us to buy a pig in a poke. I was advised that under this part of the legislation the land would retain a specified amount of domestic water entitlement that could not be traded on the open market. However, when I pushed the point on that and asked how much water this would be, I was told that that would be the subject of future regulations, and that the mechanism by which that would be determined had not yet been developed. I would not be able to determine how much domestic water would be allocated to a particular property, so I simply could not support the amendment based on the uncertainty surrounding the matter.

I also had concerns expressed to me by various stakeholders about the fact that the legislation in its original form had to be passed in order to secure the Federal Government funding of \$221 million to be made available for the State Priority Project for metering. I contacted the office of the Federal Minister for Water, Tony Burke. The advice I received from the Minister's office was that that was not necessarily the case. However, the urgency of the original legislation was predicated on the need to free up this Federal funding. I have taken that matter to the Minister's office and we have had that conversation. Having worked in Federal Government myself in the past, in the areas of native title and the Constitutional Convention, and working for the Federal Special Minister of State, I recognise the fact that it sometimes takes only one legal challenge to throw everything awry. Indeed, that is the reason that we do not oppose this part of the legislation. However, we wish to ensure that that security is provided, just in case things go wrong federally. At the end of the day, the funding will still be there waiting for whoever wins government after the March election.

I will give an undertaking in this place tonight that the Coalition will move forward as quickly as possible to bring on legislation that will tick all the boxes necessary for this funding to be made available, on the proviso that we also have a sufficient period of public consultation and discussion about the legislation. The only really urgent portion of this legislation is what is going through today, and that will allay the concerns of people such as Paul Munro, Lachlan McKenzie, Jeffrey Saville, and the many other farmers who will all benefit from the changes to the governance structures of private irrigation districts.

There are still some parts of this legislation that have not been the subject of consultation with the industry but that the Government has not removed. Schedule 1 [1], which empowers the Minister to grant licences to the Commonwealth, has not been removed. Schedule 1 [6], which removes the right of appeal for licences or conditions imposed under schedule 1 [1], has not been removed, and nor has there been any industry consultation of which we are aware. The same can be said for schedule 1 [8] and schedule 2, items [1] to [9], which dealt with the granting and surrender of licences for environmental water, and schedule 2, items [14], [15] and [17], which create offences against licensed holders, offences dependent on intended landholders running licence extraction and the taking of water within aquifers for mining activities.

Also retained in this legislation are items [51] and [53] to [57] of schedule 2, which deal with various offences and defences for certain actions that may otherwise be unlawful. The sections on irrigation corporations in items [68] to [74] of schedule 2 have also been retained even though there has been no consultation with industry. Murray Irrigation has raised concern about the wording contained in schedule 2 [7], new section 8D (2), in that it is open to interpretation and should be clarified. I quote:

- (2) The Minister may cancel an access licence surrendered by the holder of the licence and transfer the share component of the surrendered licence (subject to the application of any conversion factor prescribed by the access licence dealing principles or the regulations) to another licence if an adaptive environmental water condition is or has been imposed on the licence.

Murray Irrigation is concerned that it is unclear whether the adaptive environmental water condition is what has been imposed on the licence surrendered or on the licence to which the share has been transferred. I ask the Minister to address that issue in his reply. Murray Irrigation may have already forwarded those concerns to the office of the Minister, thus pre-empting a response tonight. Schedule 2 [9] has been removed in its entirety. The

new section varies the long-term extraction limit under the management plan by the amount of water committed as licensed environmental water. Licensed environmental water is water committed under an adaptive environmental water condition imposed on an access licence or taken, or permitted to be taken, under an environmental subcategory of an access licence or a class of licence described by the regulations.

Schedule 2 [18] has been omitted. The schedule made it clear that the requirements that local water utility access licences may be granted only to local water utilities and that major utility access licences may be granted only to major utilities do not prevent transfers to other persons permitted under the principal Act. Schedule 2 [19], which makes a consequential amendment to section 66 of the principal Act, has been omitted. Schedule 2 [20] has been omitted. The schedule enabled regulations to be made for the purposes of prescribing conditions that must be imposed on an access licence. The amendments have been circulated for members to read and compare with both the bill and the Water Management Act. I turn now to a couple of other points in my brief contribution this evening. I was concerned as to what accounting for environmental water amounted to. I received some advice from the office of the Minister on this point, which I will read onto the record. It states:

In relation to the creation of environmental licences, the purpose of the amendments is to facilitate further investment in water infrastructure and the environment by the Commonwealth and other government bodies. This investment will lead to new projects that will generate water efficiencies in rivers and groundwater sources.

In return for this investment the Commonwealth will be seeking licences equivalent to a proportion of the volume of water savings made by the projects. Any licence granted to the Commonwealth will form part of the Commonwealth environmental water holdings. They will be general licences, that is, general security or high security, but could be subcategory environmental to allow for appropriate accounting of the water.

The environmental accounting amendments contained in the bill will ensure that the granting of licences under the new provisions will not impact on the existing entitlements of users.

It continues:

The effect of the accounting amendments will be to enable these licences to be accounted for as part of the environmental pool of water rather than the consumptive pool. This means that these licences are not accounted for as extraction and the use of water for the environment will not impact on the amount of water made available to other users by triggering a growth in the use of water through extraction.

In addition the Commonwealth has indicated that its environmental water holdings will be counted towards any reductions it imposes in the Basin Plan. If those water holdings arise through efficiency gains this is a win/win situation for water users.

Minister Costa's advisers mentioned the basin plan in that briefing note to me, and I am happy to place that last statement on the record as attributable to them. The basin plan has been met with great outcry by the many thousands of people who live in the two-thirds of the State that will be affected by the cutbacks in sustainable diversion limits as a result of the Commonwealth Murray-Darling Basin Plan. The guide to that plan was released on 8 October 2010, and submissions regarding the plan close on 30 November 2010. It is well known that the guide does not take a triple bottom line approach, and that has caused outrage throughout the Murray-Darling Basin.

The Murray-Darling Basin Authority, headed by Robbie Sefton and Ian Sinclair, has conducted numerous community consultation meetings throughout New South Wales and the Australian Capital Territory. I have attended many of those meetings and I can attest to the feeling of absolute frustration in regional communities. People feel railroaded. They are similarly concerned that period for submissions is due to close on 30 November 2010. I remind concerned people that, with less than a week to go, they should get their submissions in quickly.

The Murray-Darling Basin Authority has also indicated that public comment not received by that date will not necessarily be considered. I consider that to be quite outrageous given that the authority will take six weeks or longer to consider the submissions. People may just miss the timeline having not understood the true impacts that the proposed sustainable diversion limits—as they are at the moment under the guide—will have on them. They will affect not just farmers and irrigators, but small business people who are reliant on conducting family businesses in those areas. It is not just an issue for the country; it is an issue for all the towns and cities within the affected two-thirds of New South Wales and the million-plus people who live there.

Why is the basin plan an issue for us? As the Minister for Water, who is at the table, will recognise, it is all well and good for the Commonwealth to tell New South Wales what to do—and we probably have more people living in the basin than do Queensland, South Australia or Victoria—but we are going to have to implement the changes that the Commonwealth subsequently introduces. The thought of that makes me

extremely nervous. Our water sharing plans finish in 2014, and it is highly likely that the Commonwealth will not even finish this process until mid 2012. Truth be told, the Commonwealth will probably wait until the Greens hold the balance of power in the Senate, or the Greens control the Senate, which will take us through to the middle of next year. The matter will then be dealt with through a disallowance motion and they will try it on.

Two inquiries into the social and economic impacts of this legislation on people living in the basin have been announced. That is because the Commonwealth recognises that the original guide is extremely flawed—it has considered only the environmental factors. The basin is environmentally stressed. We have just been through 10 years of drought—in fact, we have all been a bit stressed. That is why we need to consider social and economic factors and adopt a triple bottom line approach. Coalition members are extremely nervous because we represent the vast proportion of regional New South Wales and the affected electorates. The Coalition launched an online petition at www.backourbasin.com.au, which has almost 5,000 signatures. I encourage anybody with concerns to sign our petition.

The environmental water licence section of the legislation that is being allowed to pass through the House tonight is the result of the Commonwealth buyback conducted throughout the State over the past couple of years. As to the Murray-Darling Basin Plan, time will tell. I believe the Murray-Darling Basin Authority has been set up to take the heat off Minister Tony Burke. I hope the Minister gets the message. He should not be a yes man for Senator Penny Wong, who previously held the Water portfolio and now has Finance. Minister Tony Burke has to take the message from this Parliament that we are unhappy with his approach. He must ensure that the guide is started again from scratch, with a true triple bottom line approach that takes into consideration the social and economic impacts that the proposed basin plan in its current form will have on our regional communities.

My regional colleagues who are in the Chamber, the member for Murray-Darling and the member for Barwon, have expressed strong opposition to the basin plan, as have I and the member for Albury and the member for Wagga Wagga. Troy Grant, The Nationals candidate in the electorate of Dubbo, attended meetings with me in Forbes and Dubbo. Many members are extremely concerned about the proposed basin plan. Once again, I call on the Federal Government to heed our State call and take a true triple bottom line approach to the Murray-Darling Basin Plan.

I will briefly refer to comments from stakeholder representatives. These hardworking individuals do a great job representing their industry. At the outset, I thank them for taking the time out of their busy schedules to respond to me so quickly. I told them that the matter was urgent, and they got back to me urgently. I refer first to Mike Murray from the Gwydir Valley Irrigators Association. Mike Murray, who is an intelligent and practical, common-sense person, was one of the first people I had the pleasure of meeting when I took on this portfolio and visited the Barwon region with the member for Barwon early last year. In an email to me about the Water Management Amendment Bill 2010, Mike Murray says:

While I appreciate that the timing of this Bill is outside your control, I think it is entirely unreasonable that the Government has given so little notice of this Bill, which does include some fundamental changes to the legislation, as well as the principles that surround water management in NSW. I would urge the coalition to do all it can to defer this Bill, so proper consultation can occur.

This becomes a common theme of the correspondence. The email continues:

Given the time restrictions GVIA has not had the chance to fully review the Bill, but does raise the following serious concerns.

1. GVIA is very concerned about the proposal to allow trade in stock and domestic licences, in particular with the provision requiring 10% of the amount traded to be converted into an environmental licence. This requirement represents a fundamental change in water policy, and must be opposed. It represents the classic "thin-edge-of-the-wedge", and significantly undermines the rights of entitlement holders. It should be noted that trade in stock and domestic entitlements is already possible under section 71O of the Water Management Act, via the conversion of domestic and stock licences, into separate Domestic and Stock licences, and a further conversion of the Stock licence into High Security licences which can be traded. There is no requirement for the 10% environmental water conversion. This ability is specifically covered in a number of Regulated River Water Sharing Plans including the Gwydir Regulated River Water Sharing Plan.

Despite the above current ability, GVIA would be concerned about any trade in stock and domestic water, unless there was an absolute guarantee that a property that has sold stock and domestic entitlement could not access their water requirements by utilising Basic Riparian or Groundwater right provisions.

GVIA strongly recommends that any attempt to further liberalise trade in Domestic and Stock entitlements be deferred until there has been much greater industry consultation and adequate provisions have been put in place to protect against third party impacts.

Further, GVIA will always be strongly opposed to any requirement to provide a portion of traded water for conversion into environmental water.

2. Trade in Water Utility Licences—GVIA does not understand the requirement for these amendments. The Water Management Act already allows water utilities to temporarily assign water that is excess to their immediate requirements, if they receive the Minister's approval after submitting a "drought management plan".

GVIA understands that recent Ministers have been reluctant to allow such trade, and is therefore surprised that these amendments have been proposed.

GVIA's greatest concern about allowing trade by utilities is that under current arrangements utilities can apply to the Minister to increase their entitlements, if they can make a case that their current levels are not enough. Therefore there needs to be cast-iron guarantees that a utility trading cannot under any recourse seek to have further entitlement issued to them (of course they should be free to purchase entitlement on the market).

GVIA also does not understand why the amendments would allow term transfers, but not annual trade, which is far more flexible, and greatly reduces the risk of a Council selling too much water and then being forced to request the Minister to issue further entitlement.

3. Creation of Environmental Licences—GVIA does not oppose in principle water saving projects (such as the piping of replenishment flows) that result in the issuing of entitlement that can be held by government entities such as the Commonwealth Environmental Water Holder, provided there are no third party impacts. However, GVIA would be very concerned if these new licences were a specific environmental category rather than General Security, High Security etc. There may be a range of serious impacts regarding water pricing etc.

These are three main areas of concern for GVIA regarding the Water Management Amendment Bill, but GVIA's greatest concern is that it has simply not had the time or resources to fully consider the Bill, and therefore believes it should be deferred until detailed consultation is carried out.

I thank Mike Murray for his contribution, which he sent on 15 November 2010. I also refer to a letter from Scott MacDonald from Riverina Citrus to Tim Holden of State Water. I received a copy at lunchtime yesterday. The letter states:

The major irrigation industries in the MIA, (Ricegrowers Assn, Riverina Citrus, Wine Grapes Marketing Board, High Security Irrigators Murrumbidgee) would appreciate the following changes/amendments being considered in the passage of the Water Management Amendment Bill 2010. We have offered two alternatives for para 137A.

The changes restore some balance to the issues of PWC access and waiving of responsibility for PWCs.

I will not read out the full details of the amendments. The Minister has the details in his office. I thank Scott MacDonald for the information. In relation to this particular matter, we will see how the legislation plays out. We will ascertain whether we have to tweak the private water corporations [PWCs] following the passage of this legislation. If it is not working we will make sure that it is reviewed. I once again thank Scott MacDonald, with whom I had a recent meeting, and Riverina Citrus for their participation and for providing us with information on this matter. The Riverina is a wonderful part of the world and Riverina Citrus supplies a wonderful product. I also received correspondence from John Culleton, Chief Executive of the Coleambally Irrigation Co-operative Limited [CICL]. He states:

Thank you for your recent invitation to assist the ... deliberations on ... changes to the NSW Water Management Act.

He goes on:

In terms of the proposed Water Management Act, CICL was part of a working group within the NSW Irrigators Council that met with DECCW ...

The briefing was useful but much of the detail that we would hope to have seen could not be provided because the related work, supposedly, had not been finalised. CICL was very comfortable with the views that were subsequently made in NSWIC's formal submission on the proposed changes.

I thank John Culleton for his contribution. He supports the timely call by the New South Wales Nationals and the Liberal Party to renounce the guide to the draft Murray-Darling Basin Plan. I thank him for that support. He also supports our call for an extension to the current water sharing plans in order to allow for a common starting date of 2019 across the basin. Part of our policy is to push for that through the Council of Australian Governments should we be successful in achieving government next year.

As I started to explain earlier, if the Commonwealth does not finish the Murray-Darling Basin Plan until mid 2012 and our water sharing plans are due for renewal in 2014, in line with what the Council of Australian Governments has approved, then it will obviously be an impossible task to make in 18 months all the changes the Commonwealth will demand. How long did it take to get water sharing plans in the first place?

Mr Phillip Costa: Years.

Ms KATRINA HODGKINSON: Years and years, as the Minister says. It was a ridiculously complicated process and many farmers and others had to make incredible sacrifices just to get the water sharing plans to this point. People are working within those parameters and it is unfair, at the very least, for uncertainty to be generated now. We will be pushing very hard to have the water sharing plans extended to 2019. I reinforce the comments of Andrew Gregson, Chief Executive Officer of the New South Wales Irrigators' Council [NSWIC], who wrote to the Minister and said:

The consultation process with industry has been seriously deficient. No stakeholder was able to view the proposed legislation until such time as it was introduced to the Parliament. The totality of the consultation process was a briefing from the Office of Water on the concepts only. NSWIC raised several concerns in respect of the concepts, but noted specifically that we are entirely unable to provide fulsome and useful comments until such time as the full documentation is available to us.

The timeframe which you now propose for the passage of this Bill is unacceptable. We call upon you to urgently defer the matter until proper consultation is effected.

I have mentioned the New South Wales Irrigators' Council on many occasions. That council also put out a briefing paper on this matter on 19 November and a media release on the same day entitled, "NSW Water Bill Shows 'Contempt' for Irrigators and Communities". In my brief contribution today I will mention three other stakeholders that have made representations to us. One is from Murray Irrigation Limited, which states:

1. Murray Irrigation participated in consultation with the NSW Office of Water with regard to the discussion paper on Reform of Joint Private Works in August 2010.
2. The discussion paper was limited to matters relating to Private Water Corporations, Private Irrigation Boards, Private Drainage Boards and Trusts - their ability to impose penalties, fees and charges etc.
3. The discussion paper did not discuss issues relating to the trade of Specific Purpose Access Licences.
4. Regarding the current amendment before the Parliament, Murray Irrigation has no issue with the conversion of Private Irrigation Boards, Private Drainage Boards and Trusts to Private Water Corporations.
5. It is the opinion of Murray Irrigation that providing Irrigation Corporations with the additional power to impose civil penalties will strengthen our capacity to achieve compliance, where all other reasonable approaches contained within our current Compliance Policy have been exhausted.
6. Murray Irrigation feels the changes in sections 130 and 134 will simplify the process to have land approved for inclusion/exclusion in an area of operations.
7. Murray Irrigation is concerned by the wording contained in Schedule 2, Section 8D (2). It is our opinion that this paragraph is open to interpretation and should be clarified. Specifically, the paragraph reads:

"(2) The Minister may cancel an access licence surrendered by the holder of the licence and transfer the share component of the surrendered licence (subject to the application of any conversion factor prescribed by the access licence dealing principles or the regulations) to another licence if an adaptive environmental water condition is or has been imposed on the licence."

It is unclear whether the adaptive environmental water condition is or has been imposed on the licence surrendered or the licence the share has been transferred to.

I referred to that earlier in my contribution this evening. Murray Irrigation goes on to say:

8. In regard to the trade of Special Purpose Access Licences, while this would not affect Murray Irrigation directly, it may affect many of our shareholders, particularly the trade in Stock and Domestic Licences.

That has been the subject of much contention in relation to this piece of legislation. Murray Irrigation continues:

9. In his second reading speech to Parliament, Water Minister Phil Costa said stock and domestic licence holders would have to have metered water use in order to trade and that a portion of the licence would have to be retained for domestic purposes. It is our concern that there is no mention of these requirements in the amendment under either section 52A—Removal of Stock and Domestic Rights—or any of the amendments to section 71 regarding the Water Access Licence Register.
10. Specifically, Murray Irrigation would have concerns if trade in Stock and Domestic Licences was not restricted to metered users as without it, there would be no accountability.
11. Murray Irrigation notes that the NSW Irrigators Council formed a reference group to look at the issue of trade of Stock and Domestic licences as soon as they were made aware of the prospect of this amendment. Due to the short time-frame from the formation of this group to the introduction of the amendment, the group has to date not had a chance to report.
12. Murray Irrigation would support the deferment of this section of the amendment to a later date to allow all involved more time to digest the proposed changes and consider the impact.

Debbie Buller, President of Murrumbidgee Valley Food and Fibre Association Inc., wrote to us stating:

We do not believe that the NSW State Government has correctly consulted with stakeholders ... We concur with NSWIC that this bill should be deferred until stakeholders can study it properly and check for any unintended consequences or third party impacts.

Ruth Wade from the Ricegrowers' Association wrote:

The RGA agrees that the process is deficient and looks forward to receiving information that the Minister has deferred debate on this issue until all key stakeholders have been fully consulted.

I also received today a list of all the amendments on which the New South Wales Farmers Association has not been consulted. The association has had no consultation, or only partial consultation, on about 30 amendments. I know that my contribution has covered both the original legislation and the amendments and that, strictly speaking, I should speak to one or the other. But given the Minister's haste to bring on the legislation this afternoon, there has not been a lot of time to prepare a proper speech. I have tried to cover as much information as possible during my contribution.

Finally, I will outline our position in relation to this matter. We could not support the special purpose access licences in their current form due to the uncertainty surrounding any unintended consequences. The Government agreed to split the bill and has put forward these 29 or so amendments in relation to special purpose access licences, making sure that there is no trace of them left in the bill. The Government is going ahead with the private irrigation boards and the private water corporation section of the bill and also allowing for the Commonwealth-funded metering program to make sure that there is no hurdle to its establishment. Once again, the Opposition supports the Government's amendments and will not oppose the legislation.

Mr GEOFF CORRIGAN (Camden) [5.30 p.m.]: I compliment my colleague the Minister for Water on introducing the Water Management Amendment Bill 2010. I know he brings a great deal of expertise and experience as a farmer to his role. Members should not encourage him to talk about his new tractor; he will never stop. He has put an enormous amount of work into this bill and I will leave it to him to address the issues raised by the member for Burrinjuck in her brief contribution. I support the bill. New South Wales leads the way in Murray-Darling Basin reform with measures such as having the largest and most open water trading market, sharing 90 per cent of water used in New South Wales through statutory water sharing plans and proactively reducing entitlements in six groundwater systems.

This amendment bill builds on and extends the essential policy frameworks we have built in New South Wales to address the profound challenges of climate change, drought and sustainability. I am particularly pleased to support this bill because it modernises governance arrangements for private water schemes. It contains important reforms that cut red tape and simplify the governance framework, improve flexibility for operators and enhance regulatory powers. The bill should be welcomed for those reasons.

The bill cuts red tape—which should please all members—by applying a consistent and simplified structure to bodies that exercise water supply or drainage functions and, in particular, private irrigation boards, private drainage boards and trusts. In doing so, it simplifies 140 sections of the Water Management Act and 57 clauses of the Water Management General Regulation. As the management structure will apply to both water supply and drainage functions, the existing private irrigation boards and private drainage boards have been renamed private water corporations. The bill removes unnecessary government involvement in matters such as the creation of new private water corporations, the amalgamation and extension of private water corporations and the appointment of trustees by the Minister. These reforms are welcomed because the New South Wales legislation in this area was overly prescriptive. Removing this unnecessary regulation of private businesses will reduce management costs and enable these farming businesses to more easily and rapidly respond to the challenges of the future.

A key feature of the reforms is the ability of private water corporations and trusts to create their own rules. Whilst the Water Management Act and regulations will set the requirements for matters that must be addressed in the rules, the rules themselves will be under the control of the scheme and its members, and can be changed without government involvement. The rules are a more flexible version of the bylaws that can currently be made by private irrigation boards. For example, private water corporations and trusts may make rules that address matters such as the setting of fees and charges, meeting processes, decision-making requirements, and voting rights.

The specific rules that would be made by any particular corporation or trust would depend on a range of matters, including the number of members, the complexity of the infrastructure, historical relationships, and

the volume and value of the water. Some schemes may have just a few simple rules whereas others may require highly detailed and prescriptive rules. This is the benefit of these reforms—this is not a one size fits all approach. The schemes themselves will be able to make rules which fit their individual needs, without unnecessary interference from government. The Government understands the importance of ensuring that private water corporations and trusts are equipped to implement these changes and it will prepare fact sheets and model rules to assist schemes.

The bill introduces a streamlined mechanism to enable trusts to convert to a private water corporation. This is entirely optional, but the corporate framework is likely to be more suitable for the large irrigation trusts because it will simplify the process of holding real property and raising finance. The bill ensures that private water corporations and trusts are given adequate management powers to operate their businesses. The amendments give corporations and trusts the power to transform part of their group entitlement to an individual entitlement if a member makes an application. These amendments ensure that corporations and trusts have sufficient power under New South Wales legislation to comply with the Commonwealth market rules, thereby avoiding legal risk and uncertainty for these schemes and their members. These changes will also be welcomed by those stakeholders who are keen to transform their group entitlement.

The bill also gives corporations and trusts power to impose termination and delivery fees in relation to a transformed licence. These fees are essential to ensuring the long-term viability of schemes. Whereas private irrigation boards and trusts were previously constrained in relation to dealings in water, the bill gives clear power to enable members of these bodies to sell their share to another member. The bill also makes provision for the circumstances in which the group entitlement may be dealt with. For example, a scheme may be able to use its group entitlement as security for loans and sell part or all of the group entitlement, but only if these matters are positively authorised by that scheme's rules.

A key feature of these reforms is the modernisation of the framework for the management of water supply works. The bill introduces the concept of a works plan. The works plan is the document that defines the works and land in relation to which the corporation or trust can exercise its powers. The bill gives corporations and trusts the power to amend and update their works plan without any need for government intervention. This is a welcome reform because currently the framework for redefining works and land in relation to private irrigation boards is unnecessarily cumbersome. Importantly, the works plan will continue to apply to a former member's land, even if the former member has transformed their entitlement and terminated delivery rights. This ensures that the scheme can continue to operate even it has works on land owned by a person who no longer wants to be part of the scheme. This is critical to prevent outlying members from becoming landlocked due to their neighbours transforming.

A third aspect of the enhanced powers relates to compliance. Irrigation corporations and private water corporations will be given enhanced compliance and investigative powers so that they can effectively regulate activities in relation to the works under their control and management. This is important because the New South Wales Office of Water cannot readily regulate activities within scheme areas because the Water Management Act does not require licences to take water out of artificial channels or approvals for secondary take-off points. However, for joint water infrastructure to be effective all parties must take no more than their share. It is therefore important that private water corporations and irrigation corporations be empowered to investigate allegations of water theft or non-compliance from their channels. These powers are subject to oversight and challenge to ensure that they are exercised appropriately.

A fourth aspect of improved powers for corporations and trusts relates to borrowing and investment. The Water Management Act is highly prescriptive about the ability of private irrigation boards to borrow. The bill provides private water corporations with a general power to invest funds and to borrow money or to take advantage of any other form of financial accommodation. This will give greater flexibility to the corporations to invest in new infrastructure to reduce water losses. Trusts will not have access to the expanded powers to raise finance but will retain the powers that currently exist.

Along with improved powers and reduction of government involvement comes a greater need for schemes to be accountable and transparent. The bill therefore maintains appropriate oversight of private water corporations and trusts by including fundamental safeguards for members and customers of schemes. The New South Wales Office of Water undertook broad consultation on these aspects of the proposed reforms with a wide selection of stakeholders. Face-to-face meetings were held in August with eight private water trusts and private irrigation districts in the south-western part of the State, along with consultation with other water through email and teleconference. Consultation also took place with environmental groups and Commonwealth Government agencies. The outcome of these discussions was broad support for these reforms.

I conclude by emphasising the advantages of this bill to water users in New South Wales. The bill modernises the governance arrangements for joint water supply works. It cuts red tape by removing unnecessary government constraints on decision making and management of private infrastructure while maintaining appropriate oversight. This will reduce unnecessary management costs and provide greater flexibility to respond to changing circumstances. The bill simplifies the governance framework applying to existing private irrigation boards, private drainage boards and trusts by creating a single, consistent management structure. The bill ensures that private water corporations and trusts have the powers they need to manage their businesses, including the power to comply with new Commonwealth requirements. Along with the enhanced powers comes increased accountability and transparency for these bodies. The bill strikes the right balance between the needs of the infrastructure manager and the rights of members. I thank members for this opportunity to make a brief contribution and commend the bill to the House.

Mr JOHN WILLIAMS (Murray-Darling) [5.39 p.m.]: Water trusts have created a great deal of angst because the value of water has increased dramatically in recent years and trust members now have a considerable amount of money tied up in their shareholding. The problem with the trusts is that within them there are different personalities. Water trusts were established by the Water Act 1902. The Minister was in charge of water trusts and their administration and they would report directly to the Minister. For that reason, the department always had some involvement with the trusts. When meetings were held a departmental representative was usually there to ensure the interests of the Minister were served by the trusts.

Over the years there has been a desire not to have any involvement with the trusts. In some of these trusts there are passive and aggressive personalities. Water trading rules are set for the Federal Government by the Australian Competition and Consumer Commission and there are transformation rules. In these trusts we have been logjammed between the Federal Government's interpretation of how water will be traded and how the transformation should take place, with little or no input from the State Government. I was advised not to get involved, and I found out that I should not have got involved in trusts because they include both the passive and the aggressive.

Mr Kevin Humphries: You can't help yourself.

Mr JOHN WILLIAMS: I could not help myself. I got involved and stuck my head in and found that I should not have gone there, but it was too late. Fortunately I engaged David Harris, who is probably the most knowledgeable man in the water department and a great helper, to try to mediate some of the issues. We got by but we still have not achieved what needs to be achieved. Within some of these trusts there is a desire to continue the trust as a private irrigation district, to sell some water components, such as general security or whatever has not been productive, to supply the means to pipeline that water. That has been ongoing.

Post the First World War, when soldier settlements were established to provide returned soldiers with irrigation capacity, varying soil conditions were recognised within the designated area of the trusts. Some areas were allocated more water than other areas, the water was channelled around and the land started to produce. Over time, some trust shareholders did not want to utilise part or all of their allocation under those rules. Consequently people recorded the history of the use of their allocation and are now demanding continuation of that use. In fairness to all those trust shareholders, this cannot prevail. The department has a duty to mediate and recognise the historical aspects of the trusts, to go back where it all started and to recognise the shareholders' real entitlement in the trusts. There is an opportunity for aggressive people in the trusts to take over from those who are more passive, and that is not fair.

That has happened, trusts have been dissolved and there have been winners and losers. That should not have happened. The Government has an obligation to ensure that the people who bought fairly and squarely into those trusts have equitable shares that represent the historical arrangements. The department has a role to play in the mediation to ensure that within the trusts there is no bullying and no enrichment of some at the expense of others. That should have happened ages ago. I have seen far too much of that in my electorate. When trusts have been dissolved some people clearly benefited at the expense of other poor devils who worked all their lives in the area to try to build something but at the end of their working lives received nothing. There are opportunities with these trusts. We recognise the figure of 60 per cent, and the Minister has to reinforce to shareholders that at meetings of the trustees and the chairman 60 per cent of the vote will ensure how a trust is to be transformed. That will remove some of the greedy people who want to benefit from transformation.

I turn to stock and domestic water. I know from my experience that a lot of property holders would like to trade off their stock and domestic water. When we separated water from land we never took away stock and domestic water. During the last drought, in my electorate people needed a reliable stock and domestic supply. In some cases the traditional sources of stock and domestic water were either cut off or had dried up.

Nathan Rees gave me a great deal of support on this issue. In many cases during the drought we were able to ensure that property holders' requirements for their stock and for their domestic use were maintained. It became evident to me that we should never think that someone can trade off stock and domestic water, which would create a destructive force in western New South Wales that would stop production in good pastoral districts because in times of need most of the farmers do not have the capacity to cart water. Many people say they would like to trade off their stock and domestic water, that they never use it. I have seen cases where it has been a godsend, it has kept people alive and has maintained their stock.

I thank the Minister for addressing these trusts. We need that mediation. I guarantee it is not an easy process. In many cases trustees do not have the expertise. The trustees have been farmers and in most cases they have become pushovers for the bullies. In this transformation a little bit of mediation by the department will ensure a fair go for all.

Mr KEVIN HUMPHRIES (Barwon) [5.49 p.m.]: I speak on the Water Management Amendment Bill 2010. For almost two years prior to Minister Costa becoming Minister for Water discussions were taking place about the ability of State and Federal governments to access water, particularly off allocation schemes. New South Wales has many such schemes operating with many hundreds of thousands of megalitres of water. Efficiencies were identified through the modernisation of the schemes. Nevertheless, there was difficulty in restructuring the schemes to buy back water and maintain productivity within the existing framework. The schemes were set up to prevent people from leaving the schemes, based on the fear that if people came and went there would be stranded assets and ongoing maintenance issues.

Those matters were taken on board and there has been timely debate between State and Federal governments on whether the Australian Competition and Consumer Commission would use its powers to break up the trusts by deeming them monopolies rather than redefining the schemes and modernising them. This bill seeks to do that and I congratulate the Minister on that process. I suspect he has received some good advice along the way from people such as David Harris in the department, or from that font of all knowledge in the Office of Water, Vic Smith. Three years ago when I spoke to Vic about water sharing plans and restructuring, he gave me the number of a plumber. Things have come a long way since then, and frank and fearless advice is given. The member for Burrinjuck referred to Andrew Gregson, who has done a great job. He outlined the concern of his members, and that has been constructive. I pay tribute also to Michael Murray, who has provided me with excellent advice and has given advice to Government and other members over previous years. Mike has now taken a job with Cotton Australia so we will lose him as a policy adviser to Queensland but hopefully we can draw on his expertise.

Other people I acknowledge for modernising the scheme are Doug McKay, a solicitor from Warren. Doug was involved in initial meetings with the department and worked through a number of the schemes, particularly using the Trangie-Nevertire scheme as a template. In that vein I commend Simon Hunt and the people of the Nevertire district for their excellent work. Advice from irrigators and departmental officers have resulted in a bill that appears to set in place a functional framework for the Federal Government to engage with either individual water holders or those within trusts. The schemes will now be recognised as private water corporations and will be set up similar to a body corporate, a framework familiar to people. With that two-thirds consensus there can be change and I ask the Government to work with that model. As the member for Murray-Darling stated, we need expertise to help private water corporations evolve and work through the modern framework process.

I have found over the years that many members are not aware of their rights, entitlements or obligations. It would serve the Government well to release an information package on these legislative changes given the billions of dollars tied up in assets in the schemes. I congratulate the Government on this excellent way forward. It is preferable to the Australian Competition and Consumer Commission using its powers to target individuals within the schemes, which would be a nightmare; it would leave stranded assets and not lead to efficiency gains. To my knowledge all the schemes entering into the process will make efficiency gains. Thousands of megalitres of water will be returned in a productive way to the environment at cost. No-one I have spoken to objects to the Commonwealth and access licences, although they may not have digested it fully. One argument has always been that until the environment is on a commercial footing, similar to that of irrigators and other entitlement holders, there will never be an opportunity to develop a true balance in water sharing across the basin and the State.

I suspect the Minister appreciates that New South Wales has led water reform. However, often the other States have watched and gauged the reaction, with possibly New South Wales giving over too early and

too much on some of the water allocations brought back out of the system. Access licences are needed with respect to the environment and the water sharing component needs to be on the same footing as everybody else's. The environment must be on an equal economic footing. There are significant water holdings in each of our valleys currently. As to the water sharing plan in my valley, I am aware that RiverBank and the Commonwealth entitlement holder have well over 200,000 megalitres. If that were cashed out today, it would be nearly \$500 million of water in one valley alone. The fact that that water can be traded on a temporary basis is a good thing, as long as the water balance is right. We do not want to skew the market. Some people have been concerned that the approach has not been targeted. I am aware of the reasons for that and I am sure the Minister is also.

Any modelling used in the valleys has to be authenticated. I am aware that the integrated quantity and quality model [IQQM] model is under review and will probably be replaced. Many argue that until the model is legitimised and peer reviewed, particularly with respect to unregulated rivers and groundwater, the buybacks should be suspended across the basin, particularly New South Wales, and the concentration should go into efficiency gains and implementing infrastructure. I thank the Minister and his staff for adjusting the notwithstanding rules on the Barwon for the Barwon pipeline, which went through last week. This pipeline will allow for 130 kilometres of piping for a stock and domestic channel, which will save 1,900 megalitres for the princely sum of \$2 million in support. That project started in 2005. It is an example that if the licensing, policy and exit and entry strategies are right, people will trade water and efficiency gains can be made in a timely manner. In the Central West or in the southern part of the State the bill will allow for a far smoother entry point for the Commonwealth to engage in buybacks in a systemic, not untargeted way or, as someone said, an unguided missile approach.

I thank the Minister for withdrawing the measure with respect to stock and domestic water. The last thing we need is for people to be tempted to trade off their stock and domestic water, which would lead to stranded assets. In the past this has led to enormous issues where people have either obstructed water or made life difficult for other landholders to access stock and domestic water during drought. Stock and domestic water should never be untied from the land; it should be a permanent fixture. Stock and domestic water should never be considered as a tradeable right in a permanent manner. Certainly with regard to temporary transfers it is possible. Interestingly, under the previous Act if you really pushed the buttons you could separate stock and domestic water. However, people such as me and most of those I represent would not support that. I also thank the Government for leaving the utilities alone for the moment. That is a complex issue, and there is no way people would have got their head around it in the time frame needed to properly debate the issue.

All in all, as the member for Burrinjuck said, the Opposition does not oppose the amendments. The transformation is good, and it should happen. I simply ask that an information update be provided, particularly in the Central West and in the southern part of the State, so all entitlement holders understand what their rights are. That may address the concerns of the people in the electorate of the member for Murray-Darling, where delivery-based companies are the main, rather than private water holders or general security entitlement holders.

Mr RAY WILLIAMS (Hawkesbury) [6.01 p.m.]: In speaking to the Water Management Amendment Bill 2010 I would first place on record my appreciation to Mark Moore of the New South Wales Irrigators Council. The Irrigators Council represents some 12,000 irrigation farms across New South Wales. These irrigators access regulated, unregulated and groundwater systems. The council's members include valley water user associations, food and fibre groups, irrigation corporations, and commodity groups that grow a wide variety of crops and horticultural products. The Irrigators Council has stated that the Government has failed to consult with the industry over changes to the very foundation of water access licences. Given the importance of water and water management to all of us, the Government's lack of consultation with the stakeholders is extraordinary. At the end of the day, water is life. Regardless of whether it is the environment, farmers, stock or irrigators, everyone depends on water. If we do not have water, we do not get too far.

My colleague John Williams, who represents the Murray-Darling electorate and does so capably, spoke about shareholders. I believe we are all shareholders in water, regardless of where it is. The member for Murray-Darling also spoke about fairness and mediation. The least people could have expected was to get some consultation from the Government on the issue, especially given that it affects some 12,000 irrigators. Certainly some of those irrigators can be found in my backyard. I speak of the farmers, turf farmers in particular—people such as Anthony Muscat; Graham Collis; Bob Jeffries, the president of the irrigators in my area; Councillor Paul Rasmussen; and Mary Howard, who has been involved with the Catchment Management Authority and knows more about the Hawkesbury River than most people.

While Mary Howard is a true environmentalist, she knows that we need to sustain water in the Hawkesbury River not only for the environment but also for all the industries that benefit from it. When Mary

Howard speaks about all the industries, she means the farmers, particularly the turf growers. She often speaks about her family's involvement with the prawn industry. Interestingly, as Mary Howard often reminds me, the prawn industry is very much like the canary in the coalmine: if river is not sustainable and healthy, that certainly shows in the prawns. When something like 23 sewerage treatment plants are pumping their water into the river, you develop a great appreciation of prawn production and the health of the river. The prawn industry has been suffering the effects of this nutrient-rich river for many years.

Four million people, or 60 per cent of the population of New South Wales, rely on the Hawkesbury-Nepean River drinking water catchment. The bulk supplier, the Sydney Catchment Authority, harvests the potable water from the 21 dams in the supply system, 11 of which are major dams. Some 600 gigalitres is considered to be the annual sustainable extraction from the catchment. There are 13 major weirs. Sydney Water purchases most of this water and also manages the wastewater systems of the greater Sydney area. Annually over 350,000 megalitres of tertiary, secondary and primary treated effluent are disposed of into the ocean and 150,000 megalitres are sent to inland sewage treatment plants.

The Hawkesbury-Nepean River receives treated effluent from 18 major tertiary sewerage treatment plants. Many people think that the amount of treated sewage going into the river has turned it into a drain pipe to the ocean, but we should remember that the river also supplies sustainable water to the populations of Windsor and Richmond, North Richmond, Ebenezer, Glossodia, Freemans Reach, Wilberforce, McGraths Hill, Bligh Park, South Windsor and many other towns in the area. Amazingly, sewage treatment plants pump into the river yet half a kilometre down the river from a treatment plant water is being extracted to provide water for the people in the area. I suppose we could be assumed that those people have been recycling water for many years, given that most of the water used in that area is treated effluent.

I acknowledge that the Minister for Water is at the table. I refer to a press release issued by the Minister on 2 July this year in which he stated that the Keneally Government had announced the start of new environmental flows for the Hawkesbury-Nepean River following the completion of a \$39 million upgrade to dams and weirs across the system. The Minister stated:

Overall the new environmental flow rules will see a tenfold increase in the amount of water released to restore the health of one of Sydney's most iconic waterways.

The Minister went on to say that the Hawkesbury-Nepean is the lifeblood of greater Sydney. It is, when one considers it supplies water for 60 per cent of the people of New South Wales, not just for those in the Sydney Basin. The same press release quoted the member for Londonderry as saying:

The Hawkesbury-Nepean River system supports a \$259 million agriculture industry—by protecting the river health we are also securing the future of the vital industries it supports.

That press release was issued on 2 July. Just a few months after that, irrigators on the Hawkesbury-Nepean River were notified of the Hawkesbury-Nepean River draft water management plan. When the irrigators were advised of exactly what was in that draft water management plan, their words to me were that this could mean the end of irrigation farming in the Hawkesbury-Nepean area, given that some aspects of that draft plan were so dramatic that it would greatly reduce the amount of water they would be able to use on their crops. It should be pointed out that we are not just talking about turf farms. The local turf farm industry sustains an enormous amount of the area's economy and I believe that on a weekly basis about 50 B-double trucks transport turf from the Hawkesbury area to the Sydney Basin, to our neighbouring States of Victoria and Queensland and also to South Australia.

The draft water management plan proposed a water usage reduction of 175 megalitres per day, or an 82 per cent loss of available water for irrigating. I acknowledge the work the Minister has done in negotiating with the stakeholders in the Hawkesbury-Nepean area. However, the draft water management plan stated that there would be cease to pump days, and that the cease to pump days could extend for up to 20 consecutive days. For the people who farm turf and those who have just planted a crop of lettuce or a crop of potatoes—which I stood in on Monday this week to get a photograph for the *Hawkesbury Gazette*, the good paper that represents the many people in the Hawkesbury area, because I have raised this issue on many occasions—that will result in a complete wipe-out of their crops. If those farmers get a 45-degree day in summer—and we consistently get temperatures such as that on extremely hot days in summer—that will be the end of their turf crop and their lettuce crop; it will be gone in the blink of an eye.

I acknowledge that the Minister has liaised with the people of that area, as needs to happen. I am all for sustaining an environmentally safe river. But we need to entertain mediation and compromise in relation to

every person in that area who is affected. It is no good for the Government to come in with a sledgehammer approach and propose measures such as cease to pump days on those people. We need to work with those people and ascertain exactly what they are using, and do so in a cohesive manner, and compromise with them to achieve outcomes for everyone concerned.

One cannot say that it is just those people who are not going to have water to pump on their crops who will be affected. It will be to the detriment of the farmers, their families, the local economy and the hundreds of jobs that are dependent on the industries in the area. I understand that Warragamba Dam is permitted to retain only 65 per cent capacity. If the plan of the previous Coalition Government in 1993 to raise the dam wall had been undertaken a desalination plant would probably never have been needed, nor would water restrictions have been implemented on farms.

The Greiner and Fahey governments agreed to the raising of the Warragamba Dam wall by 24 metres for a temporary storage capacity. That was the first thing Bob Carr scrapped when he came to power in 1995. That was a slap in the face for all the people in the Hawkesbury, Windsor, Richmond, downstream to Lower Portland and Wisemans Ferry, and all those who have been decimated by a flood every decade since 1950. Indeed, my family suffered from three devastating floods in 1988, 1990 and 1992. If the wall of the Warragamba Dam had been raised it would have provided temporary storage and increased capacity to allow the dam to retain more than 65 per cent now. I am more than happy for the Minister to correct me on that.

I have asked numerous questions about the structural integrity of the dam wall. I want to know whether the dam has that 65 per cent capacity. Is it as a result of some failing in the dam wall? The proposed temporary storage capacity may have strengthened the dam wall and perhaps we now would have had 100 per cent capacity. A full dam would have given us sustainable water for all those people. On 24 June 2010 I asked the following question on notice of the Minister for Water:

Will farmers who draw water from the Hawkesbury-Nepean River for their crops lose their current water entitlements and subsequently water for their crops, under the proposed changes to water flows in the Hawkesbury River?

A number of issues were raised in that question, but it has not been answered. That is what the irrigators and their families who live alongside the Hawkesbury-Nepean River are questioning. Mark Moore from the Irrigators Council stated that none of the key stakeholders have been consulted on this bill, and I understand their outrage. I place on the record my appreciation for the good work done by the shadow Minister for Water in proposing amendments to the bill—and those amendments needed to be made. The shadow Minister for Water is picking up the plight of farmers, irrigators and water users. Everybody needs water. We are all shareholders in this. We all depend on water. Our lives revolve around water. Regardless of what we do with that water we need it to sustain our existence. Imagine proposing an amendment to a bill to change water management—one of the most important issues that we presently face in this country—only giving two weeks notice and not liaising with any of the key stakeholders.

The bill is some 100 pages in length and seeks to amend multiple sections of the Act. The bill will fundamentally affect the way in which water is managed across New South Wales. It was clearly worthy of consideration, discussion and debate. The subject is far too important to be rammed through Parliament in two weeks without consultation, which is exactly what is happening. This debate should have been allowed to proceed for much longer because every member in this House should be standing up for it. Water is important whether one is a city dweller or lives in the bush. The Government has failed to do anything about this.

The Government has the worst form in building dams and undertaking to implement questionable strategies. For example, the Government spent \$2 billion for a desalination plant that could have been purchased for a quarter of the price. Evidence of that was seen at Hedera, Israel, where exactly the same desalination plant was purchased for just under \$500 million—we paid \$2 billion—two years after the New South Wales Government purchased our desalination plant. The Government jumped the gun. If only 5 per cent of Sydney homes had been given water tanks it would have negated the need for a desalination plant or for a dam for the next 10 years. But that was not taken up and the State is \$2 billion worse for wear.

Mr PHILLIP COSTA (Wollondilly—Minister for Water, and Minister for Corrective Services) [6.15 p.m.], in reply: I thank the members representing the electorates of Burrinjuck, Camden, Murray-Darling, Barwon and Hawkesbury for their contributions to this debate. Thank heavens the member for Burrinjuck is the shadow Minister for Water because she understands what is going on. The member for Hawkesbury was so far off the mark in most of what he said. What he said was not relevant, nor were the facts accurate. Some of his

comments were even farcical. Why one would only fill a dam to 65 per cent has got me beat! I look forward to Warragamba Dam being full. There is no conspiracy plan to keep Warragamba Dam at 65 per cent—that is a ludicrous proposition.

I could go on for hours about the water sharing plan for the Hawkesbury and the untruths that have been told. If it is the policy of the Coalition that 24 metres will be added to Warragamba Dam—good luck! I will not be giving a response to the matters raised by the member for Hawkesbury as to the water sharing plan but I thank the office and those people on the ground in the Hawkesbury who have worked very hard to bring this water sharing plan to fruition. Those negotiations have been going extremely well and we will have a landing, but it forms only part of the very important water process of the Sydney Basin.

Through this bill the Government has sought to build on its proud record in respect to the reforms in the water policy by New South Wales. The bill modernises the Government's arrangements for shared water supply infrastructure, which has been articulated by many. This will greatly reduce red tape for private irrigation districts and private water trusts. It will help them to comply with the Commonwealth water market rules. Importantly, the bill also facilitates Commonwealth Government investment in environmental water. In particular the reforms will facilitate an injection of more than \$220 million from the Commonwealth enabling fairer sharing of water among users and more efficient management of the systems by managers. The bill also finetunes the offences provision in the Act, making the legislation a sound instrument with which to regulate effective water policy measures.

The Government had intended to introduce further reform to promote water efficiency by providing a framework for extending water trading of specific purpose access licences. I appreciate the comments made by stakeholders concerning the proposal to enable further trading. That was one of the reasons why the Government will seek support to amend the bill to remove those provisions. I thank the member for Burrinjuck for her contribution on this issue. As both the member and I had concerns, those provisions will be removed for the time being.

Many members have referred to consultation that has been undertaken to date on provisions in the bill. Earlier in the year I wrote to stakeholders providing information about proposed reforms and offering to provide further information. Face-to-face meetings were conducted by the New South Wales Office of Water with those stakeholders who took up the offer. Separately, the New South Wales Office of Water circulated a "Reform of Joint Private Works Discussion Paper" to numerous organisations. Responses to the paper were overwhelmingly positive. In addition to seeking responses to the discussion paper, the Office of Water conducted face-to-face meetings and teleconferences with members of private water trusts and private irrigation and drainage boards. For example, three meetings held in the Murray Valley in August were attended by more than 60 stakeholders. The issues raised in those meetings and subsequent submissions have been addressed in the bill. While the reforms to private water corporations are detailed, the remainder of the bill is quite straightforward.

In relation to the specific purpose access licences [SPALs], the member for Burrinjuck spoke about the trading provisions proposed in the bill. The trading provisions would have expanded the ability of regional communities to participate in and benefit from water trade by allowing trade in specific purpose access licences. I had the opportunity to discuss this matter with the member for Burrinjuck, who indicated general support for the intentions of the bill and suggested withdrawing the provisions relating to specific purpose access licence trading. I look forward to the Opposition's support on this issue when we move amendments. I foreshadow that I will move Government amendments shortly.

I want to reply to some issues raised by members. The member for Murray-Darling referred to the historic arrangements of some schemes and asked how we would manage their transformation. I can confirm that new section 237A, which relates to water entitlements of landholders, requires members of the trust to have regard to matters, including any present or past water sharing arrangements applicable to the landholder when determining the members of water entitlements. An opportunity has been built into this bill for the matters raised by the member for Murray-Darling to be addressed. I take on board his suggestion that assistance may be required in this process. I concur with his suggestion and will see what I can do.

In response to an issue raised by the member for Burrinjuck, section 8D, adaptive environmental water conditions after the surrender of the licences, merely simplifies what could otherwise be a bureaucratic process. If work is done on a number of properties and a number of licences are surrendered, this section enables these licences to be consolidated into a single licence. It breaks down the current processes and cuts red tape. We are trying to simplify the whole process. Members raised the issue of the Murray-Darling Basin Plan. Over the

coming months the Commonwealth Murray-Darling Basin Authority will develop the basin plan for the Murray-Darling. I appreciate the comments of the member for Burrinjuck and share many of her views. I assure the House that the New South Wales Government will continue to advocate strongly on behalf of the stakeholders, including regional communities, to ensure that the final reforms are a balanced package between providing additional water for the environment and maintaining agricultural production and our rural communities. This is in keeping with the philosophy of good governance which New South Wales has lived by.

In recent weeks I have been visiting regional communities across New South Wales and I have listened to the concerns of communities. Their concerns will be used in compiling a response on behalf of the New South Wales Government. New South Wales leads the way in Murray-Darling Basin reforms. We have the largest and most open water trading market. Currently, 90 per cent of the State is covered by water sharing plans and we are proactively reducing entitlements in groundwater systems. The State Government should be proud of the progress that has been made in this field. The member for Burrinjuck raised the important point that this State will have an important role in delivering the Murray-Darling Basin Plan. It will be a challenge for us in terms of timing, particularly when it has taken so long historically to get where we are. As a consequence, I have adopted a "go slow and be careful" approach to ensure proper implementation of measures.

Once again I thank members for their contributions to the debate. The amendments that have been foreshadowed are important changes. We will remove from the bill all references to SPALs so that the process can be revisited at a later date. The two elements of the bill that we continue to support are the trust and the setting up of environmental licences, as requested by the Federal Government. I congratulate the member for Barwon on his contribution. The member demonstrated a sound understanding of the water market and the water industry. I appreciate his comments because he knows what needs to be done and I thank him for his support of the bill. As he stated, the environmental water holder must be brought in line with all other water users so as to ensure the capacity for environmental water to be identified in this manner. We believe it will be of great benefit to the entire basin in due course. 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 Phillip Costa.

Consideration in Detail

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! I propose to deal with the bill in groups of clauses and schedules.

Clauses 1 and 2 agreed to.

Schedule 1 agreed to.

Mr PHILLIP COSTA (Wollondilly—Minister for Water, and Minister for Corrective Services) [6.28 p.m.], by leave: I move Government amendments Nos 1 to 23 in globo:

- No. 1 Pages 12 and 13, schedule 2 [12], line 14 on page 12 to line 7 on page 13. Omit all words on those lines.
- No. 2 Page 15, schedule 2 [18], lines 30–35. Omit all words on those lines.
- No. 3 Page 15, schedule 2 [19], lines 36 and 37. Omit all words on those lines.
- No. 4 Page 16, schedule 2 [20], lines 1–6. Omit all words on those lines.
- No. 5 Page 16, schedule 2 [21], lines 7 and 8. Omit all words on those lines.
- No. 6 Page 16, schedule 2 [25], lines 19–23. Omit all words on those lines.
- No. 7 Page 16, schedule 2 [26], lines 24–28. Omit all words on those lines.
- No. 8 Pages 16 and 17, schedule 2 [27], line 29 on page 16 to line 3 on page 17. Omit all words on those lines.
- No. 9 Page 17, schedule 2 [28], lines 4–8. Omit all words on those lines.

- No. 10 Page 17, schedule 2 [29], lines 9–14. Omit all words on those lines.
- No. 11 Page 17, schedule 2 [30], lines 15–23. Omit all words on those lines.
- No. 12 Page 17, schedule 2 [31], lines 24–27. Omit all words on those lines.
- No. 13 Page 17, schedule 2 [32], lines 28 and 29. Omit all words on those lines.
- No. 14 Page 17, schedule 2 [33], lines 30 and 31. Omit all words on those lines.
- No. 15 Page 18, schedule 2 [38], lines 8–11. Omit all words on those lines.
- No. 16 Pages 18 and 19, schedule 2 [40], line 17 on page 18 to line 19 on page 19. Omit all words on those lines.
- No. 17 Page 19, schedule 2 [41], lines 20–24. Omit all words on those lines.
- No. 18 Page 19 schedule 2 [43], lines 27–29. Omit all words on those lines.
- No. 19 Page 19, schedule 2 [44], lines 30 and 31. Omit all words on those lines.
- No. 20 Page 23, schedule 2 [58], lines 3 and 4. Omit all words on those lines.
- No. 21 Page 23, schedule 2 [59], lines 5–10. Omit all words on those lines.
- No. 22 Page 69, schedule 2 [94], lines 12–19. Omit all words on those lines.
- No. 23 Page 75, schedule 2 [109], lines 27 and 28. Omit all words on those lines.

Ms KATRINA HODGKINSON (Burrinjuck) [6.29 p.m.]: I acknowledge that the Government is moving 23 amendments to its original 99-page amending bill. Never before have I seen in this Parliament the Government move so many amendments to a bill that was only introduced a little over a week earlier. It sends a very strong message that we have to be scrupulous with legislation introduced by this Government. We should not take anything at face value but make sure that good, solid consultation has taken place with stakeholders and with the people on the ground who are going to have to wear the consequences of the legislation. There is probably nothing more complex in this State than water legislation.

There have been many changes to water legislation since the National Water Initiative, and even before that. Over the past 15 years we have seen more changes to water legislation than possibly in any other jurisdiction in the State. The situation became more complex when licensing systems were established and it was realised that over-allocations had to be dealt with during the drought. We have had the National Water Initiative, the Commonwealth Water Act 2007 and the original Water Management Act 2000—I remember making a contribution in this place in relation to that, and we dealt with stock and domestic licences at that time. We have been through the gamut of water management legislation in this place and in this nation, and it is becoming increasingly complex.

That is why legislation such as this should not be rammed through Parliament in this way. I accept that there was a non-sitting week in between the introduction of the legislation and the agreement in principle debate. But that is not enough time for industry. We must consider not only the amendments that this bill makes to the original Water Management Act but the subsequent amending bills. During debate on the Water Management Amendment Bill 2009 I remember clearly the Minister saying that we needed to enact that legislation in order to facilitate Federal funding. It is swings and roundabouts when it comes to water in this State. I again reinforce the fact that industry did not have enough time to consult fully on this legislation. If industry had been given access to an exposure draft of the bill, it might have been a different story tonight. We might have been able to negotiate different things in the lead-up to the bill's development and the Government would not be facing the embarrassment of having to introduce 23 amendments to a piece of legislation that is so fundamentally flawed.

It is a demonstration to us all that Opposition members should truly scrutinise bills—go through them with a fine-tooth comb—and get the stakeholders involved. I hope that the Government appreciates the fact that the Opposition has not sought to play politics on this issue. Water is far too important. I could have waited until tonight's debate, come forward with our own amendments and said the legislation was flawed and that if the Government did not accept the Opposition amendments we would oppose the bill. But water is far too important. We know that people in our communities have been waiting for more than two years for legislation that deals with private irrigation boards. I am willing to give the Government the benefit of the doubt that

Commonwealth funding may be reliant on the passage of sections of this legislation. But it is not good enough to leave special purpose access licences the way they are at the moment, with no guarantee as to what is involved and the Government saying, "Sorry, but we'll develop the regulations later".

I must necessarily keep my contribution brief but I want to go a little off track. I mentioned before a couple of the Minister's staff. I must also acknowledge Mitchell Isaacs, who is growing a moustache for Movember. There are a lot of people involved in the water industry in this State and the vast majority of them are men. Men's health is extremely important, and men should look after themselves. Movember recognises the need to raise awareness of prostate cancer. I congratulate Mitchell Isaacs on his efforts for Movember. He is registered on the official website, where people can donate money to him. Nick Sozou, who is an employee of the Parliament, is also taking part in the fundraising. I pay tribute to all the men who are making a statement this month for Movember, and I encourage people to get behind them. Returning to the legislation, the Opposition is not playing politics. We support the Government's amendments and we will not oppose the legislation.

Question—That Government amendments Nos 1 to 23 be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 to 23 agreed to.

Schedule 2 as amended agreed to.

Schedule 3 agreed to.

Consideration in detail concluded.

Passing of the Bill

Motion by Mr Phillip Costa agreed to:

That this bill be now passed.

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

LOCAL GOVERNMENT AMENDMENT (ENVIRONMENTAL UPGRADE AGREEMENTS) BILL 2010

NATIONAL PARK ESTATE (SOUTH-WESTERN CYPRESS RESERVATIONS) BILL 2010

STATE EMERGENCY AND RESCUE MANAGEMENT AMENDMENT BILL 2010

Messages received from the Legislative Council returning the bills without amendment.

[The Assistant-Speaker (Ms Alison Megarrity) left the chair at 6.36 p.m. The House resumed at 7.30 p.m.]

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr GREG SMITH (Epping) [7.30 p.m.]: I lead for the New South Wales Liberal Party and The Nationals in debate on the Statute Law (Miscellaneous Provision) Bill (No. 2) 2010. The bill amends various Acts and statutory instruments to effect statutory law revision and to give effect to consequential and ancillary amendments. The relevant amendments are set out in five schedules. Schedule 1 includes proposed amendments to the Adoption Act, which is a very important Act that has been the subject of much controversy in recent times. The proposed amendments will enable a principal officer of an accredited adoption service provider to delegate his function of preparing a report to appropriately qualified employees of the service provider or of a foster care service affiliated with the service provider.

The proposed amendment to the Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 repeals an uncommenced amendment to the Commission for Children and Young People Act 1998.

The uncommenced amendment is being repealed because it may unnecessarily limit the capacity of the convenor to provide information concerning the death of a child to the NSW Ombudsman as an agency. The proposed amendment to the Commission for Children and Young People Act 1998 enables the convenor of the Child Death Review Team established under the Act to determine the remuneration and allowances to which a person appointed by the convenor as an expert adviser is entitled.

The proposed amendments to the Community Relations Commission and Principles of Multiculturalism Act 2000 increase from 11 to 15 the maximum number of commissioners that may constitute the Community Relations Commission, and make other provisions relating to a quorum. Proposed amendments to the Community Services (Complaints, Reviews and Monitoring) Act 1993 return the basis of reporting of the NSW Ombudsman's work and activities under the Act in relation to child deaths to calendar years rather than financial years. The proposed amendment to the Community Welfare Act 1987 omits a section that provides for the establishment of an advisory body that has not been constituted for several years. The proposed amendments to the Conveyancing Act 1919 extend a provision that currently allows a court to determine the amount payable under a mortgage and arrange for its discharge under certain circumstances.

The Co-operative Housing and Starr-Bowkett Societies Act 1998 substantively applies provisions of chapter 2K of the Corporations Act to cooperative housing society charges. These provisions will become outdated on the commencement of the Commonwealth Personal Properties Securities Act 2009 and the repeal of chapter 2K of the Corporations Act. The proposed amendments to the 1998 Act will provide for the effect, registration and enforcement of security interests in personal property. Consequential amendments to the Co-operative Housing and Starr-Bowkett Societies Regulation 2005 are also made. Similar amendments have been proposed to the Co-operatives Act 1992 and the Co-operatives Regulation 2005. Proposed amendments to the Environmental Planning and Assessment Act 1979 alter the terminology in the provisions relating to the appointment of planning authorities to avoid the suggestion that plans need to be subject to multiple gateway determinations.

The proposed amendment to the Fines Act 1996 relates to the written notice of an intensive corrections order. The proposed amendment to the Gas Supply Act 1996 enables regulations to be made for, or with respect to, exemptions from regulatory provisions made under the Act. Proposed amendments to the Health Practitioner Regulation (Adoption of National Law) Act 2009 will make the treatment of impaired practitioner reports consistent with that of reports about the examination of health profession students whose capacity to undertake clinical training is believed to be impaired. This provision relates to reports produced about registered health practitioners believed to have an impairment that may detrimentally affect their capacity to practise their profession. Proposed amendments to the Heritage Act 1977 enables regulations under the Act to make provision for, or with respect to, minimum standards and their enforcement that may be listed on the State Heritage Register for the maintenance of an object listed on the register. The proposed amendments will create a new scheme for the maintenance of moveable objects and ruins on the register.

Proposed amendments to the Independent Commission Against Corruption Act 1988 mandate that a public authority take action in a stipulated period from the moment a recommendation of the Independent Commission Against Corruption is received. The public authority must inform the Independent Commission Against Corruption of the plan of action and its progress. Other proposed amendments relate to an increase in the conditions of office for the assistant commissioner. I am aware of criticisms of some agencies for failing to respond to recommendations. Hopefully these amendments will improve that situation. The proposed amendment to the Independent Pricing and Regulatory Tribunal Act 1992 requires consultation with the Independent Pricing and Regulatory Tribunal and the Premier's approval before the Minister can make any direction to the tribunal in relation to price determinations.

Turning to schedule 2, amendments to the Institute of Sport Act 1995 relate to the size of the board of the institute, as well as its quorum, which is increased from five to a majority. Amendments to the Law Enforcement and National Security (Assumed Identities) Act 2010 relate to restrictions on the disclosure in legal proceedings of the identity of a person in respect of whom an assumed identity authority granted under the Act is, or was, in force. Pursuant to the amendments, such a restriction can now apply in relation to the identity of a person in respect of whom such an authority granted under a corresponding law in another jurisdiction is, or was, in force.

Similar changes are made in relation to the Law Enforcement (Controlled Operations) Act 1997. The proposed amendments to the Licensing and Registration (Uniform Procedures) Act 2002 are made as a consequence of amendments proposed to be made to the Road Transport (Driver Licensing) Act 1998, also part

of this bill. They will have the effect that the provisions of the Licensing and Registration (Uniform Procedures) Act 2002 relating to identification photographs of applicants for specified licences and certificates of registration will no longer apply to identification photographs of applicants for such licences under the Commercial Agents and Private Inquiry Agents Act 2004.

Amendments are made to a multitude of other statutory instruments in this and the following schedule, schedule 3. However, I will pause here to make a point on a matter that should be of deep concern to those who value the integrity of the legislative process in this Parliament. A copy of the bill was delivered to my office very late in the day—the same day that it was to be debated in this House. Its contents obviously cross over the portfolios of all my shadow Cabinet colleagues. How are we to reasonably have regard to these changes and ascertain a position with respect to the proposed reforms? The extremely limited time that we have been allowed to reflect on this proposed law makes a mockery of the democratic process. Such limitations in time do occur, but only in situations of extreme urgency. I do not understand how this bill falls into that category.

I recall the legislation dealing with outlaw motorcycle gangs was declared extremely urgent. In April last year we were given very little notice of enormous changes to the criminal law and to the normal law concerning rights of subjects on the basis that an application had to be made urgently to the Supreme Court for orders to declare at least one gang an outlaw gang and to obtain control orders, and matters of that sort. Two months later the legislation was amended, and it was another 18 months before an application was made to the court—so much for the urgency of that bill! Unfortunately, despite the recent decision in *South Australia v Tatar*—the Government has suggested that that State's legislation is distinguishable from our own—there are aspects of our current law that raise concern and are currently the subject of a High Court application. That is the worst-case scenario.

This legislation probably does not make the same sorts of major changes—many of its changes are minor. But unless one can go through the legislation and examine it one cannot tell whether mistakes have been made—and occasionally mistakes are made. What is the emergency that the Government is trying to remedy by pushing this bill through with such extreme rapidity? Why could we not deal with the bill next week, particularly when it amends so many pieces of legislation? We cannot help but feel that the Government, which is obviously on its deathbed, is simply trying to ram through reams of legislation in the vain hope of creating a smokescreen of activity.

Many of the proposed amendments in the bill may be trivial, minor or procedural, but the only way that this can be determined effectively is if they are considered in detail. This requires reasonable time. The amount of time my office has been given cannot be considered reasonable by any rational criterion. As the saying goes, the devil is in the detail. It is close to impossible to have proper regard to the detail under these conditions. The real losers here are the people of New South Wales, who hopefully will make the right choice in March next year. The people rely on us, as an Opposition, to provide the checks and balances on government and the process of law making. What has happened here today thwarts this completely.

In the limited time available, I have managed to have a cursory review of the remainder of the bill. Schedule 4 deals with the repeal of provisions in redundant Acts and statutory instruments, amending provisions that have commenced, provisions that amend Acts that have since been repealed, and other Acts where parts of those Acts have been quarantined by part 2 of the bill. Part 2 of this schedule isolates provisions of Acts otherwise repealed in the schedule, where those provisions remain relevant and effective at law. Schedule 5 relates to general savings, transitional and other provisions. Under the circumstances, it is difficult to ascertain any strong argument for or against the bill. It is the second one of its sort this year. It appears to be a consolidation of amendments, changes et cetera, aimed at making the process of law more efficient and just. Accordingly, the Liberal Party and The Nationals will not oppose it.

Mr DAVID HARRIS (Wyong—Parliamentary Secretary) [7.45 p.m.], in reply: I thank the member for Epping for his contribution to this debate. The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010 continues the statute law revision program, which goes back to 1984. This is an efficient mechanism for making minor amendments to legislation and has become an important convention of Parliament. Many of the amendments in this bill are minor technical changes to legislation, covering changes in style or repealing spent legislation. Other amendments are minor policy changes that would not otherwise warrant their own bill. As is the convention, any changes that are objected to are removed so they can be dealt with in separate legislation. 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.

Passing of the Bill

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

RURAL FIRES AMENDMENT BILL 2010

Bill introduced, by leave, on motion by Mr Phil Koperberg, on behalf of Mr Steve Whan.

Agreement in Principle

Mr PHIL KOPERBERG (Blue Mountains—Parliamentary Secretary) [7.47 p.m.]: I move:

That this bill be now agreed to in principle.

The amendments outlined in this bill have arisen from the New South Wales response to the recommendations of the Victorian Bushfires Royal Commission. It is incumbent upon us all to learn the lessons of that shocking tragedy. We must never be complacent in searching for innovative means of further enhancing our community's bushfire preparedness and protection. The Rural Fires Amendment Bill 2010 makes changes in three important areas, to the Rural Fires Act 1997, the State Emergency and Rescue Management Act 1989 and the Rural Fires Regulation 2008.

The bill will formalise the responsibility of the New South Wales Rural Fire Service to issue public warnings about bushfires, increase the level of representation on the New South Wales Bush Fire Coordinating Committee and grant statutory recognition to neighbourhood safer places. Some of the most significant recommendations of the Victorian Bushfires Royal Commission's findings relate to the delivery of information during a bushfire. Accurate and timely information can assist people in making informed decisions about the actions they need to take in the face of a bushfire threat. The royal commission's first recommendation in its final report was the enhancement of the role of warnings in advising the community about bushfires. I understand that Victorian legislation has since been amended to vest responsibility for issuing appropriate warnings in the Chief Officer of the Country Fire Authority in the State of Victoria.

Under the New South Wales State Disaster Plan [Displan], it is the responsibility of the lead agency responding to an emergency to issue warnings to the public. In the case of major bushfires, the lead agency is the Rural Fire Service. The proposed amendment outlined in this bill recognises the current practice in which the New South Wales Rural Fire Service Commissioner ensures that appropriate warnings are issued at times when members of the community are potentially at risk from bushfires. This amendment formalises and enhances this existing function for the commissioner, or his delegate, to ensure that warnings are issued regularly and when necessary. The Victorian Bushfires Royal Commission made a number of recommendations dealing with measures to mitigate against the risk of fire ignitions caused by electricity infrastructure. The commission identified faulty powerlines as one of the causal factors in a number of the Black Saturday fires.

The bill before the House provides for an increase in the membership of the New South Wales Bush Fire Coordinating Committee—from 13 to 14 members—to include a representative from the Energy Sector, Minerals and Energy Division of the Department of Industry and Investment. The Bush Fire Coordinating Committee provides a forum for a broad cross-section of government and non-government organisations with an interest in the prevention, mitigation and suppression of bushfires. Through the Bush Fire Coordinating Committee, new policies and procedures aimed at ensuring a coordinated, agreed approach to bushfire management are developed. While Industry and Investment is already represented on the committee by its Forests New South Wales division, this additional membership will acknowledge its responsibility for the oversight of energy management and operation in New South Wales. Extending the membership of the Bush Fire Coordinating Committee in this way will serve to highlight, at State coordinating level, the vital need for consideration of the potential bushfire risks specifically arising from electricity infrastructure and its maintenance.

Neighbourhood safer places have also evolved from the royal commission's findings and recommendations. A neighbourhood safer place is a place of last resort for people during a bushfire as part of a

contingency plan if the bushfire survival plan has failed or cannot be put into action. A neighbourhood safer place is an identified building or open space that can provide a higher level of protection from the immediate life-threatening effects of a bushfire—such as exposure to radiant heat, smoke and embers. As the royal commission acknowledged, using this type of refuge still entails some risk, both in moving to the neighbourhood safer place and while sheltering there. They are meant as places of last resort in extreme emergencies only, with the primary purpose of protecting human life.

The royal commission articulated the need to have clear responsibilities and arrangements in place for these places. This bill introduces amendments to give statutory recognition of neighbourhood safer places and to assign responsibility to the Rural Fire Service for identifying and designating neighbourhood safer places throughout the State on public and private lands, ensuring every effort is made to consult and reach agreement with the owner or occupier of an area identified as a potential neighbourhood safer place prior to designation. In the case of land that is not privately owned, designation may be made even if consent is not provided, ensuring that the safety of the community is not compromised in these cases.

The Rural Fire Service is also assigned responsibility for undertaking an annual review of designated neighbourhood safer places to ensure they continue to be appropriate as a place of last resort from bushfires, decommissioning designated neighbourhood safer places where they are no longer considerable suitable, and ensuring that neighbourhood safer places are taken into consideration in bushfire risk management plans, as well as being published on the Rural Fire Service website. After developing guidelines for the identification of these places, the Rural Fire Service initially decided as an interim measure to ask local emergency management committees to assume responsibility for identifying suitable sites. This decision was influenced by the need to ensure the timely rollout of the scheme.

The proposed amendments, while seeking to formalise arrangements, differ from the current practice in several key aspects. Local emergency management committees will no longer be responsible for identifying potential locations or approving neighbourhood safer places. Instead, the Rural Fire Service will assume these responsibilities, recognising that, as the lead agency for bushfire management, it is the best qualified and equipped to do so. To reinforce the bushfire safety of at-risk communities, the Government this month expanded the Neighbourhood Safer Places program with an injection of \$3.4 million per year. This will provide the additional resources required to identify, construct, maintain and ensure signage of new and existing neighbourhood safer places.

The Rural Fire Service will also develop and implement a community protection planning framework to link current bushfire risk management plans to more detailed and tailored community-specific planning. As I have already said, the amendments in this bill arose out of this State's response to the recommendations of the Victorian Bushfires Royal Commission. These are important and sensible amendments that will clarify and articulate responsibilities and procedures. Ultimately, they will benefit the people of New South Wales not only by helping to reduce the risk of fire but also by providing prompt warnings and enhanced protection for communities during major bushfire emergencies. 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.

ROAD TRANSPORT (DRIVER LICENSING) AMENDMENT BILL 2010

Bill introduced on motion by Mr David Borger.

Agreement in Principle

Mr DAVID BORGER (Granville—Minister for Roads, and Minister for Western Sydney) [7.58 p.m.]:
I move:

That this bill be now agreed to in principle.

The object of the Road Transport (Driver Licensing) Amendment Bill 2010 is to amend the Road Transport (Driver Licensing) Act 1998 to increase the number of demerit points required to be accumulated before unrestricted licence holders are subject to licence suspensions and other sanctions. This amendment seeks to increase the current number of demerit points that can be accumulated by unrestricted licence holders from 12 to 13 and increase the number of demerit points that can be accumulated by professional drivers from 12 to 14 on the basis of additional time spent on the roads. This amendment will not apply to learner or provisional licence holders.

The three-year period in which demerit point penalties are kept on a licence will remain, as will the operation of the 12-month good behaviour period. It is important that these new reforms do not extend to young people setting out on their driving careers. They face particular challenges because of their age and experience on the road network. Good reforms introduced recently with respect to provisional drivers have helped to keep down the road toll and maintain a safe environment for young people in particular.

Therefore, the increase in the number of demerit points will not extend to those categories of licence holders in New South Wales. This amendment defines a "professional" driver as a person whose primary work involves personally driving a motor vehicle on roads in or outside of the State—that is, if they are a licence holder of this State. Evidentiary provisions, set out in accompanying regulations, will stipulate that the Roads and Traffic Authority [RTA] can determine whether the person is a professional driver. This will enable the RTA to request a person to submit information about the person's work so the RTA can determine whether the person is a professional driver. A person who does not provide the requested information may be treated as if they were not a professional driver for demerit points purposes. It is important that in drafting provisions down the track—provided this legislation is supported in both Houses—we look at making those provisions tight so they are not abused.

These amendments are in recognition of the evolving nature of enforcement methods and the fact that New South Wales has the strongest safety regime and Demerit Points Scheme in the nation. As the NRMA has stated, if we keep coming up with new ways to catch drivers without giving something back to motorists, the public's confidence in the demerit system may wane. We are very proud of our record on safety in New South Wales. New South Wales has a strong history of innovation in the provision of technology that can keep our roads safe and drive down the New South Wales road toll. The Demerit Points Scheme is a national initiative, introduced in New South Wales in 1969, that operates in all States and the Australian Capital Territory. As an aside, I was born in 1969. The system has been in place for a long time. I note that the Premier mentioned that she was born in 1969 as well. The scheme allocates penalty points, or demerits, for a range of driving offences. The national scheme provides a reference point for Australian jurisdictions but it is not a straightjacket.

The Demerit Points Scheme has been amended on several occasions to address particular matters of public interest. However, it has been some years since key aspects of the scheme's overall operation were comprehensively reviewed or amended. It is important to note that the number of demerit-based offences has progressively grown over the years to a current level of approximately 600 demerit offences, which is substantially more than other jurisdictions. I am advised that, by comparison, the number of demerit-based offences in Queensland is approximately 347, in South Australia approximately 263, and in Victoria approximately 184. In the last decade obviously licence suspensions have increased. In some cases, licence suspensions are for very good reasons. But we need to ensure fairness in the system, fairness for drivers, and fairness for professional drivers.

About 25,000 licence holders are currently on good behaviour periods. These figures indicate that there is a strong public policy case that warrants consideration of an increase in demerit points for appropriately licensed drivers. A recent NRMA survey has found strong support for increasing the threshold number of demerit points at which suspension occurs from 12 to 13. But we know that drivers support this reform to ensure fairness. The proposal to increase the demerit point threshold for professional drivers from 12 to 14 has been enthusiastically welcomed by the Transport Workers Union and the NRMA, which suggested consideration of this reform in its October submission to the Government. Recently I attended a meeting of the Taxi Drivers Association, which meets at the Granville Kewpies Soccer Club, in Colquhoun Park in Granville. I was invited to address the 30 or 40 taxidriviers in attendance at the meeting. The taxidriviers told me before this reform was publicly announced that they felt it was a very fair initiative, and that they looked forward to supporting it as enthusiastically as they possibly could.

This amendment is in recognition of the increased exposure to enforcement that professional drivers incur as a result of their greater use of the road network and the consequences of licence suspension on their employment and family life. The Transport Workers Union yesterday issued a media release in which it commended the New South Wales Government, saying, "We have been fighting for extra points for heavy vehicle drivers for 30 years, so today is a landmark victory for our members across the State." Whilst we support professional drivers in the supporting regulations, we will be sure to limit the classification of professional driver to ensure that eligibility criteria is tight and that only genuine people whose primary occupation is driving will qualify for this additional demerit point.

The New South Wales Government acknowledges the importance for a large number of people in the community of holding a licence. Motorists rely on the ability to drive for employment and education purposes,

to access health and medical services and specialists, and to fulfil family and carer obligations. These amendments are about fairness for motorists without sacrificing safety. They are timely and proportionate responses that take into account the growth in the number of demerit points, no longer just for safety offences, and the growth of speed and safety cameras, as well as the State's extensive highway patrol presence. Most drivers are decent, law-abiding citizens, and to expect all motorists to go through their driving lives without ever making a mistake is unrealistic. I commend this legislation to the House.

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

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr MIKE BAIRD (Manly) [8.06 p.m.]: I speak to the State Revenue Legislation Further Amendment Bill 2010. It would be remiss of me not to welcome my family to the Chamber to watch their first State Revenue Legislation Bill, which surely will be a life highlight for them. It is great to have my wife, Kerry, here, together with my daughters Laura and Cate, and young Luke. I certainly appreciate all the support they provide me in this place.

At the outset I indicate that the Coalition is happy to support the bill. We understand some of the drivers for the changes proposed in the bill, and note that the bill provides benefits both for people caught up in some of the amendments and provisions but more broadly for people such as first home owners, given that the first home owner grant will be available to a large number of people following the passage of the bill. The purpose of the bill is to make various amendments, including an increase in the first home owner grant cap to comply with the Federal intergovernmental agreement, an update of payroll tax share scheme provisions to align with Commonwealth legislation, and the extension of duties concessions for superannuation property transfers.

Various amendments have been made recently to legislation administered by the Office of State Revenue. I acknowledge the role of the staff of the Office of State Revenue in the drafting of the bill. I know they spent a lot of time, unappreciated and unloved, trawling over lines and lines of data and detail. I acknowledge their role in drafting some of these amendments but also generally for their work in making the State revenue tick. The bill clarifies the implementation of those amendments, and brings New South Wales legislation in line with Commonwealth requirements, which is critical.

The bill makes amendments to the Duties Act 1997 to clarify the duties concession for transfers of property to new trustees of self-managed superannuation funds. I will refer to that aspect in a moment. The bill also amends the Duties Act 1997 to extend the duties concession for people changing superannuation funds. Currently a concession is given to transfers of property from a pooled superannuation trust to a fund; however, this amendment enables the reverse. This concession has been closely monitored, and that has brought about this amendment. The bill further amends the Duties Act 1997 to extend to other defence force officers a provision that exempts from duty an application from a war veteran to register a motor vehicle.

The bill also provides amendments to the First Home Owner Grant Act 2000 to increase the first home owner grant cap from \$750,000 to \$835,000 from 1 January 2011, as the Commonwealth requires it to be no less than 1.4 times the capital city median house price. The agreement does not seem to define the source of the capital city median house price but I agree that using the Australian Bureau of Statistics median makes sense. That is why the figure of \$835,000 is proposed in the bill. It also provides amendments to the Land Tax Management Act 1956 to extend the tax concessions to two years; the concession is currently for one year with discretionary provision from one to two years. It further provides amendments to the Payroll Tax Act 2007 to make further provision with respect to liability for payroll tax of shares or options granted to employees by employers.

The Opposition broadly supports the provisions contained in those amendments. We support harmonisation with the Commonwealth through the amendments to the first home owner grant cap and the payroll taxes proposed. The clarification of concessions for trustees of self-managed super funds addresses a problem already identified by industry. One of the industry participants came to the Opposition with this problem. The unintended outcome was that section 54 of the Duties Act was amended, changing the definition

of "special trustee" such that trustees of self-managed superannuation funds are no longer deemed special trustees. The practical outcome of that is that any changes to the trustees of self-managed superannuation funds are now governed by section 54 (3) and if any new person seeks to become a trustee of the fund, instead of a mere \$50 fee applying, as in the prior law, duty must be paid on the dutiable value of the assets in the trust. This meant a higher tax burden for the trust, which appears to be contrary to the clear purpose of the Act. This amendment seeks to address this by including a "trustee of a self-managed superannuation fund" to the meaning of "special trustee", therefore alleviating the unintended outcome. The Opposition supports that change.

The payroll tax amendment may provide more flexibility to taxpayers with choice of valuation method, which the Opposition supports. The removal of constraint for transfers of property or when people change superannuation funds is also supported by the Opposition. The Office of State Revenue argues that these changes have come about through consultation with industry groups and professional bodies such as the Financial Services Council. The only criticism the Opposition has is the absence of time to have undertaken that consultation itself, so as to allow it to understand in detail the impact of some of these changes. The Leader of the Opposition made a very valid point earlier tonight when he said to push through legislation at this hour of night with the volume of legislation that is being forced upon this Parliament is not true democracy. Members should never be put in the position of not having the chance to consider in detail the implications of changing laws, and not being able to undertake appropriate consultation with stakeholders, the community and experts. The best possible laws and the best outcomes for the community are arrived at with due process and due time.

The forcing through of this legislation has precluded the Opposition from seeking any form of consultation with key stakeholder. However, on the basis of what has been proposed as a matter of trust the Opposition is happy to support the Government. The Opposition has no choice but to trust that the Government has followed due diligence, that the Office of State Revenue has undertaken the appropriate consultation, and there are no unintended consequences, such as the one I previously articulated. The Opposition strongly argues that the precedent of forcing legislation through should not be perused but the amendments in this bill are supported. My bugbear in relation to bills associated with State revenue legislation, or with anything that has a financial or budgetary impact, is that some detail of that should be provided by the Government.

I was advised during our briefing that the Office of State Revenue stated that the impact on revenue is expected to be negligible, but there is an impact. I ask the Parliamentary Secretary to confirm in reply that the impact is negligible and to quantify, at least by a ballpark figure, how much this will cost and what its impact on the budget will be. Every member is entitled as a basic form of discipline to understand the financial consequences of every piece of legislation that passes through this House. This State needs much stronger financial discipline. Putting ownership on Ministers and Ministers looking at the impact of how every public dollar is to be applied is sadly lacking today. I encourage that to be made an ongoing discipline. The Opposition supports the amendments as presented. There is also be a late amendment, which is more of a typographical error, relating to page 4, schedule 1 [10], omitting "to the person" and inserting instead "to any person". The consequence of that amendment will not change the commercial nature of the bill or the terms proposed.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [8.15 p.m.], in reply: I thank the member for Manly for his contribution to this debate and I welcome the members of his family to this House tonight. The Government is committed to having best practice revenue laws and these amendments reflect that commitment. The State Revenue Legislation Further Amendment Bill makes important amendments to State tax Acts both to protect the revenue and to ease the compliance burden on New South Wales taxpayers. These amendments include changes in response to issues raised by industry and also Commonwealth legislative changes.

I point out to the member for Manly that the amendments contained in this bill have been the subject of consultation with professional and industry bodies, including the Financial Services Council, the Institute of Chartered Accountants and CPA Australia, the Law Society of New South Wales, the Property Council of Australia, and the Taxation Institute of Australia. I thank those organisations for their assistance in preparing this legislation. As to the impact of the changes, I am advised that Treasury estimates with the first home owners grant cap an additional 200 applications will be received in the 2010-11 financial year and this will equate to around \$1.5 million. I am also advised that the impact of the duties amendments will be negligible. I foreshadow that there will be a minor amendment to the bill. 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

ASSISTANT-SPEAKER (Mr Grant McBride): Order! By leave, I will propose the bill in groups of clauses and schedules.

Clauses 1 and 2 agreed.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [8.19 p.m.]: I move Government amendment No. 1:

No. 1 Page 4, schedule 1[10], line 34. Omit "to the person". Insert instead "to any person".

The State Revenue Legislation Further Amendment Bill 2010 contains amendments to section 150 of the Duties Act 1997. These amendments are an integrity measure intended to clarify how to determine whether a significant interest is held in a landholder. The amendments are intended to ensure that debt interests are disregarded when determining whether the required percentage interest is held. Debt interests are primarily interests of creditors repayable on a notional winding up. New section 150 (4), as currently drafted, does not disregard all debt interests held in the landholder, it only disregards debt interests held by the person whose percentage interest is being tested. This amendment clarifies that any debt interest held in the landholder is to be disregarded. I commend the amendment to the House.

Question—That Government amendment No. 1 be agreed to—put and resolved in the affirmative.

Government amendment No. 1 agreed to.

Schedule 1 as amended agreed to.

Schedules 2 to 4 agreed to.

Consideration in detail concluded.

Passing of the Bill

Motion by Mr Barry Collier, on behalf of Mr Michael Daley, 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.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr GREG APLIN (Albury) [8.22 p.m.]: I lead for the Opposition on the Building and Construction Industry Security of Payment Amendment Bill 2010. This bill amends the Building and Construction Industry Security of Payment Act 1999 to make further provisions for securing the payment of progress payments under construction contracts. The bill was introduced without notice this afternoon. Contrary to an assurance by the Leader of the House yesterday that "bills introduced this week will be debated next week", this bill is being rammed through on the same day of its introduction. The Government's statements have no credibility. The Government is treating this Parliament, the stakeholders and the people of New South Wales with contempt.

The object of this bill is to amend the Building and Construction Industry Security of Payment Act 1999, the principal Act, to provide a procedure for a subcontractor on a construction project who is claiming

progress payments from a defaulting contractor to secure payment of those progress payments by giving notice of the claim to a principal contractor further up the chain of contractors engaged on the project. The principal contractor is then required to withhold payment of money owed by the principal contractor to the defaulting contractor to give the subcontractor a reasonable opportunity to make use of the recovery procedures provided for under the principal Act and the Contractor Debts Act 1997.

The bill is short in length, and consultation with stakeholders was even shorter. As the Master Builders Association of New South Wales put it this afternoon, "We had no inkling" that this bill was ready to go before Parliament. That is always a good start to proceedings. Two other key organisations represent builders in this State. The Builders Collective of Australia agrees with the sentiments of the Master Builders Association, while the New South Wales Executive Director of the Housing Industry Association could not be reached on short notice. Some time ago the Government released a discussion paper, to which submissions were made. The Master Builders Association has issues and concerns about this document. It stresses that it did not know the bill was coming before Parliament and has not had discussions with the Minister.

In particular, the Master Builders Association mentions two issues of concern. First, it appears that the bill opens the door for adjudicator shopping. That is where a builder of influence or understanding may be able to seek to influence the adjudication process by having a say over the selection or choice of an adjudicator. Second, some type of central register may be necessary if the building industry is to keep track of various orders, notices, payments and other matters arising from adjudication applying to members of the industry and requiring action by other members. The bill introduces notice provisions and penalties for failure to follow procedures or provide information. How will builders know what is going on in order that they do not find themselves liable to penalty? The Builders Collective of Australia shares these concerns.

The object of the bill is to address a genuine problem where subcontractors are unable to obtain payment for their work. This is not a simple matter to solve because others, including those who have no idea that a problem of payment has developed, will have to become involved in the financial transactions of other builders. The wave of a magic wand does not fix this problem. The Government shows real hide by attempting to deal with this complex issue without meaningful discussion with the three organisations which, between them, represent so many builders in this State. Was the Minister afraid to tell the builders what he was up to? Was he afraid that they might express their dismay by bricking up the door to his office? As the principal concerns are matters of procedure, it may be possible to cure the defects in this bill by regulation or amendment once stakeholders have had the opportunity to read, digest and discuss the bill with their members and advisers. Accordingly, the Opposition reserves its position and will debate the bill in the other place.

Mr GREG PIPER (Lake Macquarie) [8.26 p.m.]: I speak in support of the Building and Construction Industry Security of Payment Amendment Bill 2010. I agree with the concerns raised by the Opposition about the lack of time afforded members of Parliament and, indeed, the community to inform themselves about the implications of the bill. There is a clear need to provide surety of payment to subcontractors who may otherwise fall victim to the failure of defaulting contractors from whom such payments are due. I have no doubt that many such examples over the years have brought about the need for this legislation. I recently attempted to assist contractors in the Lake Macquarie electorate who faced problems that would fall under these protections. Their example shows the need to protect contractors, even those doing work for the New South Wales Government.

In March this year I wrote on behalf of a small business that had subcontracted for a Transgrid project. The subcontractor completed the work but was not paid because of the financial failure of the principal contractor. It was a matter of particular concern that a business subcontracting on a government project could be affected in this way. It certainly speaks of the risks to subcontractors in the broader industry. In response to my inquiry on behalf of my constituent, I was advised by the Minister for Energy that Transgrid complied with the New South Wales Government code of practice. However, I understand that Transgrid had the discretion to request a statutory declaration from the principal contractor that subcontractors had been paid and could have withheld payment from the principal contractor until it received this declaration.

When speaking about this matter, it is not my intention to try to apportion blame. We must look beyond the question of fault and address the issue. I do not wish to apportion responsibility to the Government for the principal contractor's failure and the hardship suffered by the subcontractors. But it begs the question that if a government construction project cannot ensure payment, what project can? The building industry is littered with the corpses of failed contractors. Too many of these are small companies that have been left unpaid for materials purchased and work performed. The system of claims and progress payments to be implemented under the bill will require some administrative effort. I have no doubt that this will be at the expense of all parts of the

industry and ultimately the consumer. However, it is all too often that fair and honest behaviour cannot be assumed without some legislative control. It remains to be seen what the exact administrative structure will be but hopefully it will be only a modest cost and will have a very clear and worthwhile benefit. On balance, I support the bill.

Mr CRAIG BAUMANN (Port Stephens) [8.29 p.m.]: I make a brief contribution to the Building and Construction Industry Security of Payment Amendment Bill 2010. I will keep it brief because this bill was introduced earlier today and I have had no time to really digest its effects or to consult with industry bodies. The object of this bill is to amend the Building and Construction Industry Security of Payment Act 1999—the principal Act—to provide a procedure for a subcontractor on a construction project who is claiming progress payments from a defaulting contractor to secure payment of those progress payments by giving notice of the claim to a principal contractor further up the chain of contractors engaged on the project.

The principal contractor is then required to withhold payment of money owed by the principal contractor to the defaulting contractor to give the subcontractor a reasonable opportunity to make use of the recovery procedures provided for under the principal Act and the Contractors Debts Act 1997. Schedule 1 [1] establishes the scheme for securing the payment of progress payments described in the overview. The main features of the scheme are set out as follows:

- (a) a subcontractor who has made an adjudication application under the principal Act for a progress payment owed by a contractor on a construction project (the **defaulting contractor**) will be able to require another contractor on the project (the **principal contractor**) who owes money to the defaulting contractor to withhold payment of money owed to the defaulting contractor,
- (b) the principal contractor will then be required to withhold payment to the defaulting contractor (and will become liable with the defaulting contractor for the amount owed to the subcontractor by the defaulting contractor if the principal contractor fails to withhold payment to the defaulting contractor)
- (c) the obligation of the principal contractor to withhold payment continues until the subcontractor's claim is withdrawn or, if the claim is successful, for a sufficient period after the claim is finalised to give the subcontractor a reasonable opportunity to recover from the defaulting contractor using procedures under the principal Act or the *Contractors Debts Act 1997*,
- (d) the subcontractor will be able to obtain from the defaulting contractor (via the claim adjudication process) the name and contact details of any person who is a principal contractor to the defaulting contractor,
- (e) the principal contractor will be protected from any claim for payment by the defaulting contractor while the obligation to withhold payment continues.

This might be the best legislation that has ever been before this Parliament but, even if it is, the indecent haste in which the Government is pushing through legislation that may have huge repercussions on what is arguably the biggest and most complicated industry in New South Wales is nothing short of scandalous. As I speak I still cannot read the Minister's agreement in principle speech as Hansard has not had time to publish it. I sense that the purpose of the legislation is presumably to protect a subcontractor from a defaulting contractor, and that seems to be a very worthy goal. The bill talks about subcontractors, contractors, principal contractors and, of course, defaulting contractors, who, one would assume, is not the subcontractor or the principal contractor.

I inform the House that I have been close to the building industry since my teens. My father established the family commercial building company nearly 40 years ago. I helped move that company from commercial to residential building nearly 30 years ago and that company is still going strong. In the main, in the context of this bill, residential builders would be the contractors. Residential builders generally purchase materials that are crafted by subcontractors to produce a dwelling—a dwelling that the end purchaser turns into a home. I wonder whether this bill would treat the end purchaser as the principal contractor, because at the end of the day the purchaser or the purchaser's lender is the one who pays the final accounts.

If this bill intends to saddle purchasers with the onerous responsibilities of a principal contractor it is doomed to fail. The residential building industry is extremely competitive; margins are therefore low and builders have enough problems getting what is owed under a building contract without adding more. In my personal case, my company has never not paid a subcontractor or a supplier. We have replaced materials that were not up to standard, we have stripped and redone the work of substandard subcontractors, but we have always paid them—and hopefully never found ourselves employing them again.

In my experience, whenever bureaucrats try to help the building industry they tend to make blunders. The roof insulation debacle springs to mind. Good, expert and long-term roof insulation contractors suddenly

found themselves competing with opportunistic bottom feeders to stay in business. Designed to stimulate the economy, Blind Freddy could see it would fail. When untrained labourers are crawling around old roof cavities throwing in imported insulation batts, one only has to wonder what else could go wrong—and, of course, it did, with fatal consequences. The Minister is probably about to jump up and tell me to confine my remarks to the leave of the bill, and I will.

In the example of roof insulation, in many cases established insulation contractors had to use subbies. Many of these subbies achieved absolutely nothing. Stories of batts, still in their plastic bags, thrown into roof cavities, left in garages and dumped on front lawns, were common. These subbies did not complete their side of the agreement and they did not deserve to get paid, but under this legislation they could possibly find a principal contractor—perhaps the insulation supplier—to withhold funds from a perfectly honest contractor. I refer to note (a) in the features of the scheme that I just mentioned where the subcontractor will be able to obtain from the defaulting contractor, via the claim adjudication process, the name and contact details of any person who is a principal contractor to the defaulting contractor.

Whilst note (a) refers to payment owed on a construction project and the principal contractor on the project, note (d) suggests that an aggrieved subcontractor can find any principal contractor that employs the contractor and demand that he withholds payment. That raises the interesting situation where the principal contractor is not actually paying the defaulting contractor, who can no longer pay the subcontractor, so the subcontractor goes to the real villain who happens to be the principal contractor. Under this clause he could go to any principal contractor that employed the defaulting contractor and demand payment from him, although, as I say, the defaulting contractor may not even be at fault.

I reiterate that it is embarrassing to participate in debate on legislation that has ignored the peak industry bodies such as the Housing Industry Association, the Master Builders Association, the Urban Development Institute of Australia and the Property Council. Legislation that has been introduced in such a way insults and denigrates most of the New South Wales building industry because of the lack of consultation. I do not like this bill but I cannot see it doing too much harm in the next few months. If it protects good, honest, hardworking subbies from unscrupulous contractors, it may do some good. For every 10 good contractors there is one shonk, and I have a feeling this legislation will probably benefit the shonks—they go broke with monotonous regularity, leaving debts of millions of dollars without discriminating between house purchaser or hardworking tradesmen and their families. They rise again from the ashes, builders licences intact, and form phoenix companies without this Government taking much interest. I say in summary: honourable intention, doubtful legislation, hopeless application.

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [8.37 p.m.], in reply: I note the contributions of the member for Albury, the member for Lake Macquarie and the member for Port Stephens. I particularly note the wholly foolish and intellectually inadequate contribution of the member for Albury. He made some snide comments about short consultation and a short bill. He would have been better advised to have read the bill. If he had read the bill he would have found that the two points he raised—adjudicator shopping and the need for a central register—have nothing to do with this bill. Whether they are good or bad issues they are not anywhere near the core of this bill.

As to the issue of consultation, I simply note that in September 2010 we released a discussion paper on the issues previously raised by stakeholders over a very lengthy period of time, including how much more assistance could be provided for subcontractor claimants. More than 50 submissions were received from a range of stakeholders including unions, construction companies, legal firms, industry associations, authorised nominating authorities and adjudicators. Face-to-face consultations were also held with key stakeholders by the Department of Services, Technology and Administration. Participation in those sessions included representatives from Unions NSW; the Construction, Forestry, Mining and Energy Union; the Electrical Trades Union; industry associations such as the Master Builders, the Master Plumbers, the Master Painters and the Air Conditioning and Mechanical Contractors associations; construction industry bodies including the Housing Industry Association; and authorised nominating authorities and adjudicators. This bill has been consulted to death.

I should add that the consultation paper raised a number of issues apart from the specific proposal and there will be an ongoing consultation process about those other aspects of the original paper. The member for Port Stephens appears to believe that any principal can be dragged in. That is not the case. The only principal who can be involved is the principal immediately up the chain. My understanding of what he said is that he

believes it is much more than that. It is not; it is targeted only at the next party up the chain. To go any further than that would have been much more challenging and would have given rise to some of the concerns that he raised.

This Government introduced the Building and Construction Industry Security of Payment Act in 1999 to address unethical payment practices in the construction industry. The Act has reformed payment practices in the industry. It provides access to speedy, low-cost resolution of disputed payment claims and has stimulated cash-flow along the supply chain. In particular, it has provided benefits for the small players in the construction industry—those subcontractors who can least afford to have their payments delayed. This Government is committed to ensuring that the security of payment scheme provides the best possible protection for subcontractor claimants.

After consulting with the industry, it became apparent to this Government that additional measures were warranted to ensure that payments awarded through adjudication determinations make their way to the subcontractor claimants. This bill contains amendments that will go some way towards addressing the difficulties faced by unpaid subcontractors while at the same time ensuring that an unreasonable burden is not placed on principal contractors. This will be done by establishing the right for subcontractor claimants to issue a payment withholding request on a principal contractor at the same time that a request for adjudication of a payment dispute between the subcontractor and a head contractor is made.

The payment withholding request will require the principal contractor to retain sufficient money to cover the payment claim without requiring the subcontractor to go through the courts. The moneys withheld are to be taken from any funds that are already owed by the principal contractor to the respondent. If there are no outstanding payments due by the principal contractor, the principal contractor will need to advise the subcontractor claimant of this fact within 10 business days of receiving the payment withholding request.

The bill includes protections for principals in the form of limited timeframes on the obligation to withhold funds and also in relation to contractual payment arrangements with the respondent. These amendments deliver a balance between providing additional protection for subcontractor claimants without imposing onerous requirements upon business. 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.

Passing of the Bill

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

NATIONAL BROADBAND NETWORK CO-ORDINATOR BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr DARYL MAGUIRE (Wagga Wagga) [8.43 p.m.]: I lead for the Opposition in debate on the National Broadband Network Co-ordinator Bill 2010. For the benefit of those who might read *Hansard* in days, months or years hence, I point out that this bill was introduced only today. That is typical of this Labor Government's mismanagement of the Parliament. Traditionally under this Government at the close of the parliamentary session bills are introduced, the standing orders are suspended and they are rushed through without shadow Ministers having the opportunity to scrutinise them.

The National Broadband Network has attracted an enormous amount of media scrutiny in recent times. In fact, it was the subject of debate in the Senate yesterday and members asked the Federal Government to make available information about the business case for this \$43 billion project. I understand that some Independent Senators agreed to avail themselves of a briefing offered by the Government. However, they have been gagged for three years with regard to the information provided during that briefing. The National Broadband Network project will cost an enormous amount of money—\$43 billion.

Mr Paul Lynch: We have moved on from that.

Mr DARYL MAGUIRE: There may have been some movement since I last saw a television broadcast and since the Australian *Financial Review* reported that the Prime Minister would make no concessions with regard to providing members with access to the business case. The Federal Government has committed the nation to a project that will cost \$43 billion. I understand that costing was done on the back of an envelope. Few have had the privilege of seeing the business case document, and those who have seen it have been gagged for three years.

We are now confronting a similar situation with this legislation—the National Broadband Network Co-ordinator Bill. It has been introduced in such a way that members have been deprived of the opportunity to assess what it is about and how it integrates with the larger National Broadband Network plan that is being promoted by the Federal Government. When that occurs, questions must be asked by the public and certainly by those involved in the industry. I listened to the agreement in principle speech made by the Minister at the table. I ascertained that some employment opportunities would be created similar to the opportunity created for Mike Kaiser. I forget the title of the position he will occupy, but I understand that it will be created by this legislation.

Because members have not had the chance to run the ruler over this bill, the Opposition reserves the right to oppose, to amend or to do whatever is necessary to make it acceptable after we have had the benefit of reading it and briefly consulting with industry groups that will be affected by it. As I said, time and again legislation is introduced in the dying days of the parliamentary year—in this case the dying days of a Parliament. Some 15 or 16 bills have been introduced today and the standing orders have been suspended in the expectation that members will make an adequate response and the legislation will be passed forthwith. Some legislation is complex and some is straightforward, but every piece of legislation introduced into this place deserves an appropriate response.

ACTING-SPEAKER (Mr David Campbell): Order! Opposition members who wish to conduct private conversations will do so outside the Chamber. They are disrupting the member with the call.

Mr DARYL MAGUIRE: We must respond appropriately in the interests of taxpayers. Today we dealt with the Water Management Amendment Bill. Before it was passed by the House we had to deal with 23 amendments. The message that sends to the public and to legislators—whether they be in another State or another country—is that this Government is not exercising due diligence. Much of the legislation that is presented to this House is deficient. It is unbelievable that a Minister of the Crown or a department could put forward a piece of legislation that required 23 amendments before it could be passed by this House. I am sure my colleagues, who are all very willing to speak on this bill, will agree that we should all be concerned that the rapid passage of this legislation will result in a future Parliament having to amend it because it is deficient and because it has not been subjected to the scrutiny that should be applied to every bill that is introduced in this House.

I understand that the bill will establish a co-ordinator and chief executives committee to deal with the National Broadband Network, but I believe that could and should be done by administrative order—if required at all. The bill also requires government agencies to cooperate and assist in facilitating the rollout. Given that we do not know what the National Broadband Network will be or what cooperation will be required, this is an outrageous open-ended commitment and most unusual. The bill is clearly another attempt to wedge us with the Federal Government and to handcuff us to the legislative requirements of the Gillard Government. It should be concern enough for anyone in the State of New South Wales that the Government, in the closing days of this Parliament, is attempting to ram through this legislation without the benefit of due diligence or community consultation and without input from the people it will affect the most.

Tonight we have dealt with bill after bill. Heaven knows how many more bills we will have to consider tonight that were introduced today and that have not had the benefit of the transparency that legislators should have the opportunity to apply. As I said before, we reserve the right to oppose the legislation in another place. We will reserve the right to amend the legislation. We reserve the right to amend it and to send it back to this place for the scrutiny it deserves. There are some very excited members on our side of the Chamber who are more than happy to make a contribution to debate on the bill because we are sick and tired of this Government abusing its powers and amending the rules of this House in contravention of the Westminster system. Last week the Premier walked in here and changed the standing orders. The Minister for Industrial Relations, who is at the table, was involved in rewriting of the rules of this House sometime ago, as was I. We both served on the standing orders committee to which such recommendations are sent, and we always discuss them. Recommendations traditionally go to the standing orders committee but in this case they did not.

The Premier walked into this place, moved amendments to the standing orders and now we have a whole new set of questions that caused major embarrassment to the Minister for Roads today. That is the kind of incompetence and arrogance we are seeing in the final days of this Parliament. It is a disgrace. This Government will be judged for the way in which it has managed the dying days of this Parliament. This is just another example of the way in which the powers of government and of this Parliament have been abused.

Mr RAY WILLIAMS (Hawkesbury) [8.53 p.m.]: I think the people of New South Wales will be quite disturbed tonight. They are already disturbed because they are upset by the actions of the New South Wales Government. But the Government is now going to appoint a National Broadband Network Co-ordinator and a group of other people to oversee the National Broadband Network, when it was acknowledged in the press only this week that 50 per cent of people in this country want the appropriate checks and balances in place before any government undertakes implementation of the National Broadband Network. The New South Wales Government is now going to appoint a National Broadband Network Co-ordinator—another job for the boys, another six-figure salary—a committee and Lord knows how many more people.

The object of the National Broadband Network Co-ordinator Bill 2010 is to facilitate and accelerate the rollout of the National Broadband Network in New South Wales. The bill will establish a New South Wales National Broadband Network Co-ordinator to coordinate the activities of government agencies in their involvement with the rollout of the National Broadband Network. It is extraordinary that this Government will be party to a further waste of taxpayers' money by appointing a co-ordinator, a chief executive and a committee to supplement the \$40 billion of taxpayers' money that the Federal Government is planning on spending to establish the National Broadband Network.

It was not so long ago—indeed, only a few weeks—that Malcolm Turnbull proposed in a private member's bill in Federal Parliament to examine and debate this issue because there have been no appropriate probity checks. There has been no prospectus such as a business would need if it were planning to enter into a new venture. None of the appropriate checks and balances have been done to explain to the people of Australia exactly what the National Broadband Network will achieve or how much it will cost people to connect to it once it is operational. That is the deciding factor as to whether it will ever deliver value for money. It is an extraordinary amount of money. As the good Federal member for Berowra, Philip Ruddock, mentioned to me, \$40 billion would buy 20 Epping to Chatswood rail links. That says it all. It is an extraordinary amount of money to spend on a single-focus broadband network when so many other items of infrastructure are needed across this country.

Another bill rushed through the House only an hour ago was the Water Management Amendment Bill 2010. There are no plans to implement any dams or to build any decent water infrastructure to capture the rain that falls on this State, and particularly on the city of Sydney, where an average of 1,200 gegalitres falls every year. We use only 600 gegalitres to supplement the people in the Sydney metropolitan area but do we make any further attempts to upgrade our infrastructure to capture that water? No, we do not; we are not doing anything of the sort. But we are undertaking to discuss water management plans that will restrict water allocations for farmers. Rather than implementing necessary infrastructure, tonight we are debating a bill in the New South Wales Parliament about how the Government can waste a few more millions of dollars of taxpayers' money on establishing a National Broadband Network Co-ordinator.

I wonder what qualifications the National Broadband Network Co-ordinator will need to have. He will more than likely have to be a member of a union. He will probably have to be a member of the Australian Labor Party to get the nod as co-ordinator. I wonder also about the chief executive of the committee that will advise on the National Broadband Network. The good member for Port Stephens suggests that I am taking up valuable time because we will shortly consider another important bill, the Plumbing Bill 2010. Perhaps we should have considered that legislation before we debated the National Broadband Network Co-ordinator Bill 2010 because we should know about the plumbing and the pipes before the cables go in the ground. Maybe we have got it back to front. But whatever the New South Wales Government did would not surprise us. On behalf of the people of New South Wales, I say that this is another obscene waste of money.

Mr Barry Collier: You're not speaking for the people of New South Wales; you're speaking for yourself.

Mr RAY WILLIAMS: I acknowledge that the member for Miranda is bailing out and retiring. He supports me; he agrees with me that it is another obscene waste of money—that is why he is leaving. He cannot get out of this place quick enough—another rat jumping ship. Those opposite are like a bunch of drunken

sailors, gathering all the silver from the cupboards before the ship sinks rather than repairing the hole in its side. The ship in this case just happens to be the great State of New South Wales, the once premier State. Hopefully, after 26 March the Coalition can resurrect the State to its former glory. It has suffered for more than 16 years.

Mr ANDREW CONSTANCE (Bega) [8.59 p.m.]: The National Broadband Network Co-ordinator Bill 2010 was introduced this morning and it is outrageous that we are debating it now as there are myriad complex issues involved in the rollout of the National Broadband Network. The Minister knows full well the scope of the current national debate and that the Federal Parliament is trying to ascertain the business plan arrangements around the National Broadband Network. The objects of the bill are to establish a New South Wales National Broadband Network Co-ordinator to coordinate activities of government agencies in their involvement with the rollout of the National Broadband Network, establish the New South Wales National Broadband Network Chief Executives Committee to advise the National Broadband Network Co-ordinator and issue guidance and protocols regarding the rollout of the National Broadband Network and require State government agencies to cooperate with the National Broadband Network Co-ordinator in facilitating and assisting the rollout of the National Broadband Network.

This is extraordinary legislation on a number of fronts. It relates to a Commonwealth Government program. Why it is necessary to establish a chief executives committee to advise the co-ordinator and issue guidelines and protocols regarding the rollout begs a number of very serious questions. The Opposition is being asked to accept the legislation in good faith. The Liberal Party and The Nationals reserve the right, as legislation is rammed through this place, to determine our position at a more appropriate time—not hours after legislation is introduced. We see this happen every year at this time. What will this legislation cost the taxpayers of New South Wales? What is the cost of establishing the co-ordinator and the chief executives committee? Are we looking at millions of dollars being doled out to a bunch of Labor mates, who will no doubt be signed up under contract before the State election?

The Opposition is being asked to accept this bill in good faith. We have made it clear that we will reserve our position on this legislation. We all know the debate that is happening in Canberra about the business plan. What requirements will be placed on State governments under the business plan with respect to the National Broadband Network? The bill does not make sense with respect to what is being asked of the Parliament. One wonders why legislation is required to establish a co-ordinator or a committee that relates to a Federal program. Is this a make-work scheme for the Minister? We all have serious concerns about taxpayers' money being used in this \$43 billion exercise—I forget the exact figure. It is extraordinary that we have legislation to establish a co-ordinator. The Minister must provide more details and be more transparent. We must be advised of the cost of the exercise, the salaries associated with the co-ordinator and any assistant staff to the co-ordinator, the costs associated with establishment of the chief executives committee, the nature of advice to be given, the broadband expertise of committee members, their identity and where they come from, and State government agencies that could ultimately benefit from the National Broadband Network.

I ask the Minister to spell out the cooperation required as no-one in this country knows what the business plan is because Conroy will not release it. It is extraordinary that the Government has introduced this bill today and is seeking to ram it through this evening. We should all be very sceptical about it. The Government is trying to ram 35 bills through this place in six days. The Liberal Party and The Nationals will not oppose the bills in this House but will reserve our right with respect to this bill. This could be a sop to a bunch of people about whom we know nothing regarding their experience or the cost to taxpayers. The Minister should learn about openness and transparency—although he is part of a Government that, over the past 16 years, has been clueless about that.

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [9.05 p.m.], in reply: I note the contributions of the member for Wagga Wagga, the member for Hawkesbury and the member for Bega. The member for Bega said that I should be more transparent. I suggest that he learn to read and then actually read the National Broadband Network Co-ordinator Bill 2010. Almost all the questions he asked will be found therein. The National Broadband Network Chief Executives Committee—which the member for Bega decided to denigrate and deal with as a bunch of Labor mates—will comprise the directors general of various government departments, for crying out loud!

Mr Andrew Constance: Are their salaries in here?

Mr PAUL LYNCH: Do you want to sit down and shut up for a moment?

Mr Andrew Constance: Do you want to answer my question, smart alec?

Mr PAUL LYNCH: Oh dear, the member for Bega is upset.

ACTING-SPEAKER (Mr David Campbell): Order! The member for Bega will cease interjecting.

Mr PAUL LYNCH: Andrew "glass jaw" Constance—really!

Mr Andrew Constance: Mate, you had a glass jaw when you were the Minister for Disability Services.

Mr PAUL LYNCH: He is off again. It is an extraordinary performance.

ACTING-SPEAKER (Mr David Campbell): Order! The member for Bega has made his contribution to the debate. The Minister is speaking in reply. This is debate on a bill, not question time. The Minister has the call.

Mr PAUL LYNCH: The reality is that if the member for Bega had spent a fraction of the time he spent pontificating today on actually reading the bill, he would find that most of his questions have been answered. But of course that requires from him an attention to detail that he has consistently failed to demonstrate, as I know from my time as Minister for Disability Services. The member for Wagga Wagga thought that some of the processes could have been dealt with by way of administrative order. Clearly that is not the case. A range of measures in the bill cannot be dealt with by way of administrative orders. The suggestion that we are trying to wedge the Opposition is certainly not the case. The bill is very specific about coordinating State-owned corporations and the way that State-owned corporations operate with the rollout of the National Broadband Network [NBN].

The member for Wagga Wagga also made the point that the legislation might affect people and we should consult more. The reality is that it deals with State-owned corporations and government agencies and how government agencies deal with the rollout of the National Broadband Network. The bill is actually about government agencies rather than anything broader than that. The member for Hawkesbury gave a Pavlov's dog response to the National Broadband Network. I will not deal with it in any more detail. With respect to the position of the National Broadband Network Co-ordinator, I note that the co-ordinator will be appointed under the Public Sector Employment and Management Act 2002. The Director General of the Department of Services, Technology and Administration will undertake that function until that office is created or during any vacancy.

Mr Andrew Constance: Cost please?

Mr PAUL LYNCH: If the position were to be occupied by an alternative person on a full-time basis, the usual public sector employment process would be associated with establishing new positions and appropriate pay scales would be followed.

Mr Andrew Constance: Another five-year contract before the election?

Mr PAUL LYNCH: If the member for Bega would stop interjecting and listen, he would know that I have provided the answer. He is too interested in making noise to listen to the answer. It is classic member for Bega. As members who were listening will have heard, the primary aim of the National Broadband Network Co-ordinator Bill 2010 is to ensure that New South Wales takes full advantage of the economic and social benefits that will flow from the rollout of the National Broadband Network. As I have outlined, the bill will achieve this aim by establishing a New South Wales National Broadband Network Co-ordinator. The co-ordinator will simplify the process of working with the New South Wales Government so that the network builder, NBN Co, can roll out the National Broadband Network faster. The co-ordinator will act as a single point of contact within the New South Wales Government for negotiations with NBN Co for access to State-owned infrastructure that will be used in the National Broadband Network rollout.

Mr Andrew Constance: Point of order—

Mr PAUL LYNCH: Tell us about your electoral contributions.

Mr Andrew Constance: The Minister is reading from copious notes. In this debate we have asked a number of serious questions about costings and functions.

ACTING-SPEAKER (Mr David Campbell): Order! The member for Bega will state his point of order.

Mr Andrew Constance: The Minister is not being open and transparent.

ACTING-SPEAKER (Mr David Campbell): Order! The member for Bega will state his point of order.

Mr Andrew Constance: If he wants to make a personal attack, then I will keep interjecting.

ACTING-SPEAKER (Mr David Campbell): Order! That is not a point of order.

Mr PAUL LYNCH: The Government has taken the first steps in building a platform for a successful NBN rollout in New South Wales by finalising agreements with NBN Co to use energy infrastructure within the first release sites at Armidale and Kiama Downs-Minnamurra. The bill will establish a dedicated position of New South Wales NBN Co-ordinator with the power to act on behalf of the State to ensure that similar agreements between asset owners and NBN Co are negotiated and settled in an equally smooth and successful manner as those just concluded for the first release sites. The National Broadband Network is an unprecedented initiative. It will provide widespread access to high-speed broadband that will transform the way we do business. I commend the bill to the House.

Mr Michael Richardson: Point of order: The Minister is supposed to respond to matters that were raised in the debate. He was not doing that; he had prepared notes and he was adding new material, which he is not supposed to do.

ACTING-SPEAKER (Mr David Campbell): Order! The Minister has concluded his speech in reply.

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.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Ms PRU GOWARD (Goulburn) [9.11 p.m.]: I lead for the Opposition on the Children and Young Persons (Care and Protection) Amendment Bill 2010. The Opposition does not oppose the bill but reserves the right to amend it in the other place should the information foreshadowed to be soon provided confirms that that is necessary. We join with others on our side of the House in lamenting the lateness of the introduction of a bill that appears to be, in a general sense, intended to clarify and reinforce existing aspects of the Act and does not have policy implications of any great significance. However, I certainly agree with the Minister's observation that the Wood inquiry recommendations and the legislative response to them was a complex process. Obviously some of these amendments tidy up the parts of the amending bill we passed earlier that have proven to be more uncertain than we had thought.

The bill deals with a number of issues, primarily the issue of voluntary out-of-home care when that care is provided for more than 90 days in the course of a year. This bill makes clear that it is not 90 consecutive days, which has been a way of, in a sense, getting around the intent of the original legislation. With regard to voluntary out-of-home care, I understand the bill is primarily intended to reflect arrangements for children with disabilities whose parents require respite care. When respite care occurs on more than 90 days a year it can no longer be viewed as an informal arrangement of no long-term consequence to the child.

Obviously, it is not about the kindly neighbour or relative who has the child stay for the occasional weekend. Ninety days a year is obviously a significant part of the child's life and respite care arrangements therefore need some regulation. Clearly, the provision is intended to apply not to children who are removed by statute but to arrangements where the custodians, usually parents, voluntarily relinquish care of their child for certain periods totally more than 90 days each year. Quite rightly, the bill reflects that more formal and ongoing arrangements have obvious implications for the child's wellbeing and safety from abuse or neglect during that time. I refer to the Minister's agreement in principle speech, in which she said:

The bill makes a number of amendments to improve the protections afforded to children and young people in voluntary out-of-home care. These changes are important not least because many of these children have disabilities, and so are particularly vulnerable.

That is a concern shared by the Opposition, and in that sense the bill is a welcome attempt to provide protections for these children while in voluntary care. I understand that some of the amendments were prompted by the concerns of the Children's Guardian, and I accept the word of the Government in advising that that is the case. If it proves to be otherwise, obviously that will reflect on our response to the bill in the other place. The Opposition supports the importance of ensuring that care providers in these circumstances are properly vetted and their organisations are sufficiently regulated to protect the child's interests. The Minister further said in her agreement in principle speech:

The Act currently only applies to care arranged between a parent and a designated agency or an agency registered by the Children's Guardian. The new definition will apply more broadly.

The amendment at clause 9 of the bill defines voluntary out-of-home care with reference to the nature of the care provided rather than to the accreditation or registration status of the care provider, ensuring that the definition extends to children in the care of organisations that are currently operating unlawfully. The bill also includes new provisions that make it an offence for unaccredited or unregistered organisations to provide or arrange voluntary care, so that any organisation that is operating unlawfully can now be dealt with. I understand that that was intended in the original bill, but it is now being made explicit. I am sure these changes will be welcomed by the parents of children with disabilities who from time to time seek respite care. I am sure those parents will also welcome the change at schedule 2.3, which repeals an uncommenced amendment that penalises a parent if a child is placed with an unaccredited agency.

The bill gives responsibility for voluntary care explicitly to the Children's Guardian. I understand that this change has been driven by the Children's Guardian. The exception to this is the supervision of children with disabilities. The Department of Ageing, Disability and Home Care will provide that supervision when a registered agency chooses not to contract with a designated non-government agency to take on that role. I presume it is intended that that will capture all the voluntary care of children covered by the Act. Overall, the bill appears to attempt to ensure that regular voluntary care—that is, respite care—is part of the same regulatory regime that applies to all other kinds of out-of-home care. I note that the exception to this is out-of-home care provided by the Department of Community Services—which, as we know, is not accredited. Despite this, the inclusion of respite care in this regime should provide a greater level of comfort to parents and children as well as deliver a better standard of care.

The bill gives the accredited organisation the right to restrain the child when this is necessary for the safety of the child or that of others, again in line with the rights of other out-of-home care providers. Schedule 1 [17] of the bill makes it clear that financial assistance is available to carers of children or young people who have primary responsibility for that person or persons. It is well understood that foster carers are entitled to financial assistance, but the bill clarifies that entitlement explicitly for those providing emergency care, which may be only of a few days or weeks duration but nonetheless represents a financial cost to the carer. If the Minister needs to clarify that point, I would be grateful if she would do so in her reply.

Items [18] and [19] of schedule 1 will, I believe, be welcomed by adults who have left the foster care system. The provisions entitle an adult who has been in out-of-home care while he or she was a child or young person to free access to his or her personal information held by certain persons or bodies. I think that reflects the Government's graceful recognition that these people should no longer have to pay to access their own files. Indeed, allowing them free access to their files and information will ensure peace of mind for these adults, so many of whom are traumatised by the circumstances of their out-of-home care, as we have often acknowledged in this place. I believe schedule 1 [21] is a very welcome amendment. It enables the Children's Guardian to share information with others and to seek information from others. That is all part of recognising that for these children the best care can really only be ensured when there is a coordinated response, and a coordinated response very much relies on the sharing of information.

Schedule 1 [22] expands the current regulation making powers in relation to probity checks—another very welcome improvement to the bill. Schedule 1 [24] provides that decisions relating to the making and implementation of permanency plans for children and young people are not decisions reviewable by the Administrative Decisions Tribunal, which is very sensible. I ask the Minister to clarify in reply that the removal of a child can still be heard by the Administrative Decisions Tribunal but not the nature of the parental responsibility orders. I understand the distinction being made is that the Administrative Decisions Tribunal is still able to deal with that.

The Opposition welcomes schedule 1 [25] as we are increasingly aware of the close connection between the Family Court and the Children's Court and the way these cases often bounce between them. Schedule 1 [25] includes the Family Court of Australia as a Commonwealth agency for the purpose of the exchange of information and coordination of services. Centrelink was already included. I know from dealing with the cases that come to my office that the addition of the Family Court of Australia will be a very welcome inclusion. Finally, the overall intent of the Act is to finetune those aspects of the original response to the Wood report that time has proven were in need of either clarification or confirmation. As I said to the Minister's adviser when we were discussing this, some people might have inferred that these arrangements were as we understand them now from this bill. This makes it explicit. The Opposition does not oppose the bill.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [9.21 p.m.]: I am pleased to speak in support of the Children and Young Persons (Care and Protection) Amendment Bill 2010. I speak to a number of the amendments to be brought about by the bill, which seeks to bring clarity and in turn strengthen the relationship and role of police in child protection practice. Firstly, this bill will amend section 29(6) of Children and Young Persons Care and Protection Act 1998 to add definitions of "serious offence" and "reportable conduct". This will help clarify for both Community Services and law enforcement agencies those rare circumstances when the identity of a reporter may be disclosed to police. This disclosure is only permitted in connection with the investigation of a serious indictable offence or reportable conduct alleged to have been committed or done against a child or young person.

Currently, section 29(4A) permits Community Services to disclose to police the identity of a person who makes a risk of significant harm report so that they are able to investigate a serious offence committed upon a child or young person, where that might impact on a child or young person's safety, welfare or wellbeing. However, the Children and Young Persons Care and Protection Act is silent as to what constitutes a "serious offence", and both Community Services and law enforcement agencies need certainty about the types of offences that constitute a serious offence to ensure that reporters' identities are not disclosed unnecessarily. The definitions contained in the bill include "serious indictable offences" as defined in the New South Wales Crimes Act and "reportable conduct" as defined in the Commission for Children and Young People Act 1998. Serious indictable offences are those indictable offences punishable by imprisonment for life or for a term of five years or more—for example, murder, kidnapping and sexual assault.

Reportable conduct includes a range of serious offences against children and young people, such as sex and child pornography offences, offences or misconduct involving child abuse material, child-related personal violence offences, such as intentionally wounding a child, voyeurism and related offences, any assault, ill-treatment or neglect of a child, and any behaviour that causes psychological harm to a child. Inclusion of a definition in the legislation will streamline the decision-making process for Community Service officers and police, ensure that there is a consistent approach to the provision of information to police, and hopefully make for quick resolution of any issues.

The Children and Young Persons Care and Protection Act provides that the director general or a police officer may enter premises and remove a child or young person if they are satisfied on reasonable grounds that the child or young person is at immediate risk of serious harm, and the making of an apprehended violence order would not be sufficient to protect the child or young person. The immediate aim of this power is to remove a child or young person from danger. However, as is right and proper, the matter must then be brought before a court and the director general must establish to the satisfaction of the court that the child or young person was at risk of significant harm. The Children and Young Persons Care and Protection Act as presently drafted does not clearly allow the person removing the child or young person, usually a police officer, to gather evidence, including taking photographs, video or other recordings while removing the child or young person.

The proposed amendment to section 241 of the Children and Young Persons Care and Protection Act will allow evidence of the circumstances in which the child or young person came to be exposed to a risk of significant harm to be gathered at the time that the child is removed. This will provide the best evidence to the

court so that the best decision about what is to happen to the child or young person can be made, and will lessen the probability that a child or young person will be returned to an unsafe situation. As we heard in the Minister's agreement in principle speech, the gathering of the best possible evidence is in everyone's interests, particularly those of the child or young person. I congratulate the Minister for Community Services on the bill. I have pleasure in commending the bill to the House.

Ms LINDA BURNEY (Canterbury—Minister for the State Plan, and Minister for Community Services) [9.25 p.m.], in reply: I thank the member for Goulburn and the member for Miranda for their contributions to this debate. In my brief response I will clarify the two issues raised by the member for Goulburn. This bill clearly shows that the Government is committed to ensuring the safety of children and young people in New South Wales. The bill includes a number of legislative amendments to clarify and make more workable the operation of the Children and Young Persons Care and Protection Act 1998; the legislation that underpins the work of Community Services NSW.

These amendments will finetune changes brought about through the recommendations of the Special Commission of Inquiry into Child Protection Services in New South Wales, referred to by the member for Goulburn, and ensure that the implementation of the recommendations of the Special Commission of Inquiry are effective in keeping children and young people safe. Other amendments are also included, which will strengthen casework practice, clarify court procedures, and expand the regulation-making powers with respect to Children's Services.

I turn first to the recommendations arising from the special commission of inquiry. One of the most significant changes to child protection and out-of-home care services in New South Wales is the new scheme for the provision of voluntary out-of-home care. The amendments contained in this bill will make clear the oversight role of the Children's Guardian in ensuring the safety of children and young people in voluntary out-of-home care placements and clarify the operations of the new scheme. The member for Goulburn is absolutely correct that many of these clarifications and amendments have resulted from the views of the Children's Guardian.

In respect of the voluntary out-of-home care scheme, some of the key amendments contained in the bill include: making clear the definitions used in respect of voluntary out-of-home care; clarifying that the statutory time frames are to be calculated as cumulative days in a 12-month period and not a single continuous period; strengthening the penalty regime; enabling the Children's Guardian to register organisations providing voluntary out-of-home care, and having sufficient power to monitor those agencies; requiring the Children's Guardian to determine which breaches of statutory time frames must be reported to Community Services; and extending the provisions that apply in respect to physical restraint of a child or young person in statutory or supported out-of-home care to voluntary out-of-home care.

Another recommendation of the special commission of inquiry included the requirement that Community Services apply to the Children's Court no later than 72 hours after a child or young person has been removed or assumed into care. This bill clarifies the 72-hour time frame refers to working days and that in periods of extended holidays, such as Christmas and Easter, the application will be filed within five days or on the first working day thereafter. The bill also includes other amendments aimed at improving general casework practice and court procedures. These amendments include removing the prohibition on the admissibility of child protection reports in proceedings under the Commonwealth Family Law Act 1975, the Supreme Court, Coroner's Court, Administrative Decisions Tribunal, Victims Compensation Tribunal and Guardianship Tribunal matters.

A further amendment clarifies that the disclosure of the identity of the person who makes a report about a child or young person is not unlawful if it is disclosed in connection with the investigation of a serious indictable offence or reportable conduct alleged to have been committed or done against a child or young person. The bill makes clear that the Administrative Appeals Tribunal does not have the jurisdiction to review and make findings as to whether a permanency plan has been appropriately and adequately made. This jurisdiction lies with the Children's Court. Further amendments clarify those circumstances where the Children's Court may make an order to give effect to a care plan without the need for a care application, clarify that a person authorised under the care Act or regulations or by a search warrant issued under the care Act has the power to take photographs and other recordings during the removal of a child or young person from a premise or place, and ensure that adults who were in care of a child or young person are able to access their records free of charge.

In relation to the regulation of children's services, the bill extends the regulation-making power to enable regulations to be made in respect to probity checks on persons involved in the provision of children's services. The member for Goulburn raised an issue about the eligibility of carers for financial assistance. Carers who care for children will be eligible for financial assistance and relatives who have been given parental responsibility also will be eligible for financial assistance.

Ms Pru Goward: Is that in emergencies as well?

Ms LINDA BURNEY: Yes. The member for Goulburn also raised an issue about the Administrative Decisions Tribunal. Section 245 of the Act ensures that the Administrative Decisions Tribunal can renew the removal of a child. This bill clearly demonstrates the Government's commitment to building on the important measures aimed at strengthening the child protection system in New South Wales, which arose from the special commission of inquiry. In particular, the amendments to improve the protection afforded to children and young people in voluntary out of home care are welcomed because many of these children have disabilities and are particularly vulnerable. The other amendments in the bill are aimed at clarifying and improving the workability of the legislation, which underpins the important child protection work undertaken by Community Services and reflects the Government's continued commitment to improving child protection systems in New South Wales. 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.

Passing of the Bill

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

SHOP TRADING AMENDMENT BILL 2010

PUBLIC HOLIDAYS BILL 2010

Messages received from the Legislative Council returning the bills without amendment.

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) BILL 2010

Bill introduced on motion by Ms Verity Firth.

Agreement in Principle

Ms VERITY FIRTH (Balmain—Minister for Education and Training) [9.33 p.m.]: I move:

That this bill be now agreed to in principle.

With the introduction of this bill today the Government is initiating a major reform that will have an impact for learners, employers and industries well beyond the borders of New South Wales. This bill will support national reform which has the capacity to increase the quality of vocational education and training delivery across the country and to increase consumer confidence in the performance of vocational education and training providers. The Vocational Education and Training (Commonwealth Powers) Bill refers power for regulating the vocational education and training sector to the Commonwealth, which will then take responsibility for regulating this sector across Australia.

Referring powers to regulate training organisations is not an action the Government is taking lightly. For a number of years New South Wales has been the benchmark in the regulation of training. Through our Vocational Education and Training Accreditation Board we have taken a rigorous approach to regulating the quality of training and protecting the rights of consumers of training, our vocational students and their employers. By supporting national regulation, the Government is working with the Commonwealth Government to ensure such rigorous, risk-based regulation is extended to training organisations across the country.

Regulation of vocational education and training in New South Wales has supported the growth of a quality training system within the State. Each year over 500,000 students engage in publicly funded training through our wonderful TAFE institutes and many private and community providers within the State. Possibly as many students again take privately funded vocational qualifications with private or community providers. It is a very large market and one that many interstate registered training organisations have been keen to be a part of.

Under our current national training system, the New South Wales Vocational Education and Training Accreditation Board has regulated the performance of some 1,000 training organisations that are headquartered in the State. However, it has been frustrated in this task by national rules that have prevented it from taking action when it has identified training organisations from other States that have been providing poor-quality training in New South Wales. Our current national agreements enable training organisations registered in one State to operate across State borders. This provides greater flexibility for those training organisations. However, it has proved to be problematic for consumers of training.

Currently around 1,000 training organisations registered interstate are delivering training services in New South Wales, mostly in Sydney. These organisations do not come under the control of our State regulatory process. When problems arise and quality concerns come up, as they have on many occasions, the Government has had no capacity to act to protect students and their entitlements. We have had to refer to our interstate colleagues to apply their regulatory regimes. This has been a limited and inefficient approach that has often fallen short due to the capacity of other States to examine and act upon matters outside their borders. Our current national system has failed to guarantee to industry and the community that it can ensure the quality of training provision, no matter where it occurs. This bill, which refers regulatory powers to the Commonwealth, will enable a national vocational education and training regulator to register, audit and monitor and to apply sanctions if necessary to nationally registered training organisations in all jurisdictions and training markets. This is a significant reform and has the potential to provide great comfort to industry and the community.

New South Wales is Australia's largest market for overseas students. International education is a huge part of the State's economy. Members will be aware of the significant concerns raised over recent years regarding quality of training for international students. Vocational education and training was the fastest growing sector of our international student market. Providers were keen to capitalise on student demand, particularly in skill areas linked to migration. The Government strived to manage the quality of this sector during this time of growth. However, our efforts in this endeavour were hampered by inconsistent regulation of the sector nationally and a confusing split of responsibilities between the Commonwealth and the States. In his review of the Education Services for Overseas Students Act, the Hon. Bruce Baird, AM, found:

... widespread confusion and gaps between Australian and State and Territory Governments, where no one seems to know who is responsible for interpreting or enforcing particular aspects of the National Code.

Mr Baird recommended that:

... wherever possible each provider should have only one regulator.

This bill will support that significant reform. A national vocational education and training regulator will be a single point of regulation of the international vocational education and training market within Australia. This global market for international students is becoming increasingly competitive. When students and parents from around the world decide where to study, the quality of education being offered is critical to their decision. We need to rebuild Australia's reputation to ensure that we remain a destination of choice for international students. National regulation of vocational education and training not only will improve standards and consistency but also will send a message to prospective international students that we are serious about providing high-quality training and committed to ensuring these high standards are maintained.

I turn now to the specific provisions of the bill. Section 5 (1) of the bill refers power to the Commonwealth to register and regulate training organisations; to accredit vocational courses; to issue and cancel vocational qualifications; to set standards for regulators; to collect and publish information; and to grant powers to investigate and sanction training organisations. This referral does not mean that we are avoiding responsibility for vocational education and training. That could not be further from the truth.

Section 5 (2) of the bill protects New South Wales' power regarding the funding of vocational education and also the management of State bodies that deliver vocational education, such as TAFE NSW. This section also protects this Parliament's power to make laws with regard to primary and secondary schooling, higher education, apprenticeships and traineeships, and occupational licensing. This referral is limited in scope

and is about more effective regulation of an important industry. Section 8 of the bill allows for the Governor of New South Wales to terminate this referral at any time, with six months notice. Schedule 1 repeals the Vocational Education and Training Act of 2005.

Attached to this bill is the Commonwealth's National Vocational Education and Training Regulator Bill. I have said that our intention in this reform is to extend our rigorous, risk-based model of regulation across the country. I am confident that the provisions we have negotiated within the Commonwealth bill will enable the national regulator to achieve that. The Vocational Education and Training (Commonwealth Powers) Bill 2010 delivers on a commitment to reform that the Government made at the Council of Australian Governments in November 2009. It will strengthen regulation of training organisations in New South Wales and nationally, and it will provide greater certainty for students, employers and industry that they will receive high-quality training whether they attend TAFE NSW or a private training organisation. I commend the bill to the House.

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

CONTRACT CLEANING INDUSTRY (PORTABLE LONG SERVICE LEAVE SCHEME) BILL 2010
LONG SERVICE CORPORATION BILL 2010

Bills introduced on motion by Mr Paul Lynch.

Agreement in Principle

MR PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [9.43 p.m.]: I move:

That these bills be now agreed to in principle.

I am pleased to present to the House today the Contract Cleaning Industry (Portable Long Service Leave) Bill 2010 and the Long Service Corporation Bill 2010. The Contract Cleaning Industry (Portable Long Service Leave) Bill 2010 seeks to eliminate the inequity experienced by thousands of contract cleaners who are unable to access long service leave entitlements through no fault of their own. There are approximately 44,000 cleaners working in New South Wales. Around 30,000 of those workers are engaged in connection with commercial cleaning contracts, working for consecutive, unrelated employers and are unable to accrue the requisite 10 years continuous service with a single employer to be eligible for long service leave benefits under the Long Service Leave Act 1955.

It is not unusual for a worker to clock up a few years service with an employer only to have their accrued long service leave reset to zero following the expiration of a contract, even if they are re-hired by the new contract holder. They effectively forfeit the time they have already served despite working in the same building or shopping centre, doing the same work for 10 years and often longer. With the high frequency of the changeover of cleaning contracts, the cycle repeats itself over and over again. The most effective method of addressing this anomaly is to introduce new legislation to establish a statutory portability scheme which recognises a worker's service to the cleaning industry rather than to a single employer.

On 19 August this year I announced that the New South Wales Government was committed to examining the feasibility of a portable long service leave scheme. This was met with overwhelming support from cleaning workers. This bill will give cleaners a fair deal for all the hours they have dedicated to their job. Since then New South Wales Industrial Relations has undertaken a comprehensive consultation process to ascertain the level of industry support for the scheme, to assess the scheme's financial viability and to explore optimum governance and administrative arrangements. Peak industry stakeholders who participated in regular consultation meetings include the Liquor, Hospitality and Miscellaneous Union, the Building Service Contractors' Association of Australia, NSW Division and the Australian Cleaning Contractors Association. I am told that it was immediately evident that each of the stakeholders had considered a scheme of this kind in some detail, with many elements of the proposal meeting with unanimous support and/or a high degree of consensus.

It was also clear that an important factor in the stakeholders' support for the scheme is the strong belief that a comprehensive workplace education and compliance regime will act as a practical deterrent for non-compliant operators and help maintain a level playing field for employers competitively tendering for cleaning services contracts. A leave entitlement rather than a payment in lieu of leave, like that which exists in

the building industry, properly addresses the industry-based barriers that workers face in accessing extended leave. The model draws on the content of two similar schemes which have been operative in Queensland and the Australian Capital Territory for a number of years, with some minor modifications to suit New South Wales' circumstances and other practical considerations. Both jurisdictions have provided valuable advice and assistance in the preparation of this proposal.

The scheme is designed to cover contract commercial cleaners and will be funded by a levy on registered industry employers. The levy will be calculated as a prescribed percentage of the ordinary wages of industry workers. At commencement this is proposed to be 1.7 per cent. The scheme will provide a paid long service leave entitlement calculated in line with the New South Wales Long Service Leave Act 1955 and will cover all employees and self-employed contractors performing contracted cleaning work. The scheme will be administered by the Long Service Leave Corporation, also responsible for the existing building and construction portable long service scheme, with the advice and guidance of a tripartite industry committee.

Scheme levies and income will be held in a separate fund, invested with TCorp. The financial performance of the scheme and the rate of the levy will be subject to periodical compulsory actuarial reviews. The scheme will also have reciprocal arrangements with interstate cleaning portability schemes. It is intended that the scheme will commence on 1 July 2011. I now turn to the detail of the bill.

The bill contains a clear definition of cleaning work sourced from the Federal Cleaning Services Modern Award 2010; that is, work carried out that has as its main component the bringing of premises into a clean condition, including incidental and minor property maintenance work. This definition is well understood and accepted by the cleaning industry. Adopting synonymous text minimises confusion and uncertainty as to who is in and who is out. I must be clear that the portability scheme will not apply to cleaners employed directly by schools, hospitals, factories and the like. The bill provides the Minister for Industrial Relations with a delegated authority to declare additional scheme coverage as required. This ensures that the scheme remains responsive and in step with changes within the cleaning industry.

The scheme will be funded by a levy on industry employers calculated by a prescribed percentage of the ordinary wages of their employees. The levy of 1.7 per cent was recommended by an independent actuarial consultant as sufficient to meet future liabilities and day-to-day operating costs. As I have mentioned, the bill provides that the scheme will undergo rigorous financial analysis at least every two years to ensure that the scheme's performance is sound, that it continues to be able to meet its liabilities and that the levy is maintained at an appropriate level.

Seed funding of approximately \$4 million will be provided by way of a Crown advance from the Treasurer on commercial terms repaid over a period of five years at the prevailing TCorp long-term loan rate, which is currently 5.52 per cent. The bulk of the establishment costs consist of necessary information and technology system programming and upgrades as well as additional staff and their initial training. It is anticipated that the scheme will be self-funding and will not require any further capital injections from the Crown. It should be noted that the bill does not create a new entitlement; it simply extends an existing industrial standard to a group of workers who are currently denied access to such entitlement due to industry-based circumstances or other factors beyond their control.

The bill provides that contract cleaning industry workers will be entitled to 8.67 weeks of long service leave after 3,650 days service in the industry, which is the equivalent of 10 years service, and further entitlements will be available after second and subsequent blocks of 1,825 days, which is the equivalent of five years service—entirely consistent with the benefits available to workers under the general Long Service Leave Act 1955. A worker who has an entitlement to long service leave under the scheme will receive a payment from scheme funds based on their ordinary wage, which includes shift and weekend penalties but not overtime.

Averaging provisions will apply in the event that a worker's weekly wage has fluctuated over time. To protect the integrity of the scheme and to minimise the potential for financial exploitation through artificially inflated wage rates, the bill provides the corporation with the authority to review the wages reported by an employer and to vary it as appropriate. As with the requirements of the general Long Service Leave Act, an employer will be required to grant a period of leave within six months of a worker becoming entitled to it. This can be extended by agreement and in the event an agreement cannot be reached, an employer or worker may apply to the corporation to have an extension approved. Appeals can be reviewed by the Industry Committee if required. The minimum period of leave that can be granted is two consecutive weeks. A pro rata entitlement will be available in defined circumstances—for example, death, disability or permanent exit from the industry.

Significantly the bill provides for a foundation membership bonus of 365 days service credits to industry workers who are registered in the scheme within six months of its commencement. There will be some capacity for the corporation to recognise workers as foundation members outside the prescribed period if exceptional circumstance criteria are met. This one-off bonus is designed to recompense workers for service to the industry prior to the introduction of the scheme. It will be credited immediately after registration and will count towards a worker's eligibility for a future long service leave benefit under the scheme. While the scheme will not recognise prior industry service for the purposes of accessing a long service leave entitlement under the scheme, the bill ensures that contract cleaning industry workers who have been fortunate enough to have continuous service with a single industry employer prior to the commencement of the scheme are not disadvantaged by its introduction.

Provisions are made that clarify the nexus between the operation of the scheme and existing benefits under the general Long Service Leave Act. For example, a contract cleaner who has nine years of service with a single employer and continues to be employed by that employer for 12 months following the commencement of the scheme will apply for long service leave in the usual manner. They do not need to restart the clock, so to speak. In this scenario a split liability will apply. The employer remains directly responsible for the initial nine years service and the scheme is liable for the payment in relation to the service accrued after 1 July 2011. In practical terms, the employer would pay the worker the full amount in the first instance and apply to the corporation for reimbursement for levies paid on a pro rata basis.

Importantly, the bill places a compulsory obligation on employers to register themselves and their employees in the scheme, to provide service records and to pay the requisite levy. Penalty provisions apply for breaches of these obligations. The corporation also has the ability to register eligible employers and workers of their own volition. All administrative, education and compliance services will be integrated within a reconstituted Long Service Payments Corporation, to be known as the Long Service Corporation. Consistent with current arrangements, the chief executive officer of the New South Wales Compensation Authorities Staffing Division would be appointed as chief executive officer. The Long Service Payments Corporation currently has responsibility for administering the Building and Construction Industry Long Service Payments Scheme. Both industry schemes will operate side by side.

Day-to-day and ongoing administrative costs will be calculated and charged on a proportionate basis. This model delivers considerable efficiencies and ensures that the cost of the scheme, and therefore the levy, is kept to a minimum. The bill therefore provides the corporation with sufficient powers and authority to manage the day-to-day operational aspects of the scheme in a fair, competent and transparent manner. For the sake of consistency and convenience, these provisions are largely derived from the powers and authorities the corporation already has with respect to administering the building and construction portability scheme. Importantly, the corporation will be guided by a tripartite industry advisory committee comprising employer, worker and government representatives.

The Industry Committee will comprise nine members, including one chairperson, two representatives from Unions New South Wales, two representatives from the Liquor, Hospitality, Miscellaneous Workers Union, New South Wales Branch, two representatives from the Building Services Contractors Association and two representatives from the Australian Cleaning Contractors Association. The bill provides the Industry Committee with an identical role and function to the building and construction industry committee, including appellate powers in the event that a worker or employer disputes a decision made by the corporation.

The bill provides that the scheme will commence on 1 July 2011. This allows sufficient time for the corporation to implement the necessary administrative arrangements to get the scheme up and running, including information technology systems and additional staffing. It will also ensure that a comprehensive education and communication strategy can be undertaken to ensure that employers and workers are aware of the new scheme and their obligations and entitlements. I am pleased to say that the peak stakeholders have indicated that they are willing to play a hands-on role by assisting the Government to spread the word to industry through a variety of activities including hosting workshops and advertising in industry publications.

While there will be compliance costs for employers, and potentially additional costs for procurers of cleaning services, including the New South Wales Government, the scheme will deliver considerable benefits to workers and employers. In the course of stakeholder consultation, advice has been received that industry employers currently factor into the tendered contract price a figure of between 1.67 per cent and 2 per cent of a worker's weekly wages to cover the contingent future liability of paying out an accrued long service entitlement under the general Long Service Leave Act 1955. This suggests that there is some capacity for employers

providing contracted cleaning services to absorb any increased costs arising from the introduction of the scheme and the statutory scheme can be seen as formalising arrangements for dealing with long service leave and its accrual that a responsible employer should be doing to effectively manage their existing liabilities.

The passage of the bill will mean that for the first time, many cleaning workers, including some of our most vulnerable and marginalised workers—that is, migrants, women and young people—will be able to seek extended respite from the demands of an industry where work schedules are often intense. For employers, a comprehensive workplace education and compliance regime will maintain a level playing field for businesses competing for commercial cleaning work. The Premier recently visited Liquor, Hospitality and Miscellaneous Union members in Granville to discuss the proposal, noting that the new legislation demonstrates, yet again, this Government's support for the entitlements of workers throughout New South Wales. She further emphasised that access to long service leave would boost retention rates and increase service standards in the industry.

It should be noted that the former Deputy Prime Minister and Minister for Education, Employment and Workplace Relations confirmed in writing earlier this year that States and Territories retain the authority to administer existing and new portable long service leave schemes. It was made clear that such schemes will remain separate from the Fair Work National Employment Standard for long service leave. I commend the bills to the House.

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

FAIR TRADING AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL 2010

Agreement in Principle

Debate resumed from an earlier hour.

Mr GREG APLIN (Albury) [9.58 p.m.]: I lead for the Opposition on the Fair Trading Amendment (Australian Consumer Law) Bill 2010. One might indeed debate whether fair trading has been applied to this House and the people of New South Wales in respect of this bill. It was introduced only this afternoon and a few hours later the Government is ramming it through the House, having provided the Opposition with no opportunity to scrutinise it thoroughly or, for that matter, to consult with the stakeholders and consumers of New South Wales. Unfortunately, that is the mark of this Government. Only yesterday the Leader of the House said that the bills introduced this week would be debated next week. The very next day he broke his word. One wonders whether this Government's word will be broken and the bills will be rushed through, resulting in their being subject to amendment because of the undue haste of their passage and the consequent lack of consultation and Opposition scrutiny. That consultation and scrutiny allows members to raise our concerns and those of the stakeholders.

The most dramatic part of this legislation deals with the regulation of product safety. Our story begins in 1974, when the Commonwealth Government introduced the Trade Practices Act and established the Trade Practices Commission. However, it was not until 1977 that it introduced the power to ban the sale of unsafe goods and added national consumer product standards to the Trade Practices Act. Nine years later, division 1A was inserted in the Act compelling companies to notify the Minister if they issued a product recall. In addition, the Minister gained the power to order compulsory product recalls. In 1992 the Commonwealth Government added part 5A to the Trade Practices Act introducing a strict product liability scheme. The bill before the House had its genesis long ago.

It was the year 2004 when the Ministerial Council for Consumer Affairs commenced a major review of Australia's national product safety system and laws. At that time the Australian Competition and Consumer Commission took over Federal regulatory policy for product safety. By 2006 the Productivity Commission released its report and the ministerial council began work in earnest.

Here we are today, at the sharp end of a considered process which has taken six years—and the Government has fumbled. Industry, consumers and other stakeholders have been given just a few hours to consider the wording of this important national bill. Does the bill deliver what the participants set out to achieve? Are the processes workable? Has anything been missed? The public will only know the answers to these fundamental questions some time after the scheme has commenced operation. It shows a reckless approach to handling the sensitive issue of consumer safety. It is also not a model precedent for how to reduce

red tape for business. According to the Australian Competition and Consumer Commission, there were 50 consumer product recalls in the March quarter of this year and 44 during the June quarter. The commission commented:

... the majority of recalls during the June quarter were in the categories of children's products, cars/boats/bikes and industrial products. This is consistent with the year-to-date trend: most consumer product recalls over the past six months have been of children's products.

Examples of recalls in the June quarter include one which covered approximately 3,000 laptop computers which carried a risk of the battery overheating and creating a fire hazard. There was a recall of approximately 2,000 heavy-duty commercial gas water heaters where the casing could cause contact burns, and a recall affecting 1,400 fan heaters which could overheat due to a manufacturing fault. Bans were issued for combustible candle holders, no-holes tongue studs, novelty cigarettes and various knives and toys. There is a current alert for parents about exercise treadmills. Children have been receiving serious friction burns to their hands and forearms arising from treadmills.

Food is also an important area of investigation for consumer safety. Here there are issues of contamination, storage, poor handling practices and inaccurate consumer information. In its 2007 summary of food recalls over the period from 2000 to 2007, Food Standards Australia New Zealand summarised the trends with these three observations. Over the last seven years, to 2007, the following trends can be observed: firstly, the percentage of recalls originating from company testing has remained steady from year to year; secondly, prior to 2004 there was an increase in recalls as a result of government testing; and thirdly, the percentage of recalls resulting from consumer complaints was decreasing between 1998 and 2003. Since 2004 there has been a rise in the number of consumer complaints due largely to labelling issues such as failing to include warnings of potential allergens. Back in 2008 *Choice* said:

We want a new, Commonwealth agency to oversee all product safety issues, an agency with independent power to enforce the product safety law, collect and analyse data, act as an early warning system for removing imminently hazardous products from the market, guide business in conducting recalls and inform the public of product hazards.

Much of what *Choice* wanted is here now. In brief, here are key parts of the bill which impose new obligations on suppliers and businesses, or bring new powers for Government. There has been a rationalisation of 177 different standards and bans into a single set of approximately 58 regulations. There should now be a faster and more efficient response to hazards, through the creation of an information clearing house. The aim is to improve early identification of emerging hazards. Permanent product bans and mandatory standards will now be made only by the Commonwealth Government. The ongoing role of State and Territory regulators is to enforce product safety law. They will retain the ability to implement temporary bans of up to 120 days.

Under the new law, the Australian Competition and Consumer Commission will have wider powers to issue public warnings that a product or product-related service is under investigation or where there is concern that consumers may suffer detriment from the conduct of a business. The commission can issue infringement notices for breaches of consumer protection provisions. The Australian Competition and Consumer Commission will be empowered to issue a substantiation notice to a business, for reasons such as to require a supplier to "provide information and/or produce documents to confirm that products comply with standards where a claim of compliance to a particular standard has been made by the supplier".

This means businesses must put in place processes for tracking their products and any complaints from consumers. Suppliers are required by law to advise the commission when they become aware that a good or product-related service they have supplied has caused, or may have caused, death or serious injury or illness to any person. They are also required to report if another person—for example, a customer—considers that the death, injury or illness was or may have been caused by using the good or product related service. A supplier will have just two days to notify the Australian Competition and Consumer Commission that it has become aware of an incident with the product it has supplied which may have caused serious injury, illness or death.

Another section of the bill deals with consumer guarantees. What is new here is that existing consumer guarantees will apply nationally rather than State by State. The restatement applies to goods and services bought on or after 1 January 2011 by a consumer from a supplier or manufacturer. Goods must be safe, durable, free from defects, acceptable in appearance and finish, and fit for all the purposes for which goods of that kind are commonly supplied. Services must be provided with due care and skill, be fit for any specified purpose, and provided within a reasonable time when no time is set. Goods or services covered by the Act must cost no more

than \$40,000, unless they are normally used for personal, domestic or household purposes. Goods bought at auction, garage sales or fetes are excluded. Note that a supplier or manufacturer cannot contract out of these guarantees or limit them.

Regulation of specific sales practices also comes within this bill. The new law covers sales practices such as direct selling, seeking payment for unauthorised advertising, unsolicited credit cards, pyramid sales and much more. In New South Wales we retain lay-by sales and continue to regulate multiple pricing. I have some issues with this part of the bill. What must not be sacrificed is this: consumers require protection from the worst abuses of direct selling and unsolicited selling. Some businesses target the elderly and vulnerable and sell them overpriced goods in their homes. For this reason we need tough laws and genuine, steely enforcement. However, as often happens where there is abuse, law-makers burden good businesses with rules developed to nail bad businesses to the wall. And the Australian Consumer Law is uncharacteristically prescriptive in its regulation of the direct selling industry within a bill which adopts primarily the more modern accepted approach of enacting general provisions for all traders and many industries to follow.

A lot of red tape is introduced by this part of the bill. Maybe it will prove to have been necessary. But it is a very real concern when governments become prescriptive. Here the writing is already on the wall because we are talking about the future of marketing and selling outside the retail shop environment. When the Australian Consumer Law was first mooted, following on from legislation in Europe and Victoria, the Internet was far less essential than it is now and also relatively undeveloped. The long process of reports, investigations and Council of Australian Governments involvement has polished laws which arguably represent the best of the past rather than the best structure for consumer protection into the future, when marketplace transactions can be expected to quickly follow new technological pathways as they open up. Regulators can be left scrambling. When technology opens a door, young people are the first to flood in. What might those markets look like? As an example, in some business circles there is a push to develop customers and markets through social network sites rather than by anonymous clicks on Google or Amazon.

I have some questions for the Minister. Will consumer transactions in these marketplaces be treated as unsolicited sales? Will there be limitations on the immediate supply of goods or services and when payment can be requested? What cooling off periods are really necessary online? What cooling off periods will kill emerging online or phone application markets? How do we deal with the reality that Coles, Woolworths, Myer, Westfield shopping centres and other significant retail opportunities are out of reach for those manufacturers and suppliers who are alternative or whose products and services do not meet or suit the volumes and marketing demands of our dominant retail distribution models?

Yes, we should take a moment to applaud the fact that our nine jurisdictions finally have brought much consumer law into a single package. That is a fine achievement. But we must also review, assessing whether once again government has added yet more red tape to inhibit and restrict business opportunities and the provision of goods and services to consumers in the ways they want them. It is also a sobering matter to reflect that nothing in the sales practices section of this bill will stop those businesses which deliberately set out to rip off consumers. There are more and more rules to bind good businesses but we will still see the Fair Trading Minister's bete noir—those bitumen bandits leading her on a merry chase around the State.

Ms Virginia Judge: We have caught them.

Mr GREG APLIN: The Minister says they caught them. I have to unfortunately advise that they are still very much alive and well and practising in the southern part of the State. There is much that is very good in this bill and which is welcome as we strive to raise standards of consumer safety in our community, while liberating businesses from unnecessary burdens brought about by multiple State and Territory laws and processes.

It is good to sweep these loose and scattered fragments into a more coherent whole. Today we celebrate this. However, the Government has failed in its duty to advance the Australian Consumer Law with due consideration of the importance of the legislation and the vital input of businesses and consumers. It is another job tossed out at the last gasp, and in desperate haste, by a Government on its way out the door. The people of New South Wales deserve better. How has this departing Government provided for the financial cost of enforcing these fine new consumer protection laws? It should be embarrassed for this fundamental failure. What does it mean when a Government proclaims even more new consumer protections but cannot even find evidence of real estate agents in Sydney who seriously mislead homebuyers by underquoting sales prices?

We are coming to the end of a long period where consumer protection has been strong in the law books but weak on the streets. The marketplace knows that this Government has had its mind elsewhere for a considerable time now, ensuring its members will have a comfortable time if they move into Opposition. Nevertheless, the deadline of implementation on 1 January is upon us and the bill must proceed, so we will not oppose the Fair Trading Amendment (Australian Consumer Law) Bill 2010. I conclude by advising that interested consumers and suppliers can visit www.productsafety.gov.au to keep in touch with product safety recalls and bans.

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [10.11 p.m.]: I am pleased to speak in support of the Fair Trading Amendment (Australian Consumer Law) Bill 2010. The Australian Consumer Law is a shining example of what can be achieved with national reforms when there is solid research, proper planning and goodwill among the parties. The road to a national law began on 11 December 2006 when the Productivity Commission commenced an inquiry into Australia's consumer policy framework. The commission examined ways to improve the coordination of consumer policy development, the harmonisation of consumer laws and their administration across jurisdictions. The commission also considered the removal of any duplication and inconsistency in jurisdictional consumer laws and their enforcement.

The commission encouraged maximum public participation in the inquiry. More than 250 written submissions were received and two rounds of public hearings were conducted throughout Australia over 14 days. The commission also held face-to-face meetings with a broad range of interested parties. Meanwhile, in March 2008 the Council of Australian Governments agreed to a far-reaching and accelerated business regulation reform agenda across 27 areas of regulatory reform, including an enhanced national consumer policy framework that would draw on the final report of the Productivity Commission. The Productivity Commission published its final report in May 2008 and later that month two of the commissioners addressed a meeting of the Ministerial Council on Consumer Affairs.

Ministers welcomed the opportunity to work together to develop a world-leading consumer policy framework to benefit Australian consumers, and noted that these reforms could provide a potential net gain to the Australian community. Ministers saw this as a unique opportunity to develop a new national approach to consumer policy, based on the recommendations in the commission's report. These reforms would serve to overcome inefficiencies resulting from the division of responsibilities between Australian governments so as to deliver better outcomes for consumers, lower costs for businesses and more speedily tackle practices that harm consumers.

The Council of Australian Governments asked the Consumer Affairs Ministers to develop their new proposals by October 2008. By August 2008 the Ministers had agreed to a series of proposals for far-reaching consumer policy reform. These initiatives were designed to provide greater national consistency in Australia's consumer laws, their enforcement and the way in which those laws are developed. Central to the proposals was the commitment of States, Territories and the Commonwealth to work in a cooperative way. In summary, the reforms involved: a single national consumer law, based on the consumer protection provisions of the Trade Practices Act with amendments reflecting best practice in State and Territory fair trading legislation; the Commonwealth as lead legislator, with States and Territories applying the national law as part of their own laws; and enforcement of the national generic consumer law shared between the Australian Competition and Consumer Commission and the State and Territory offices of Fair Trading.

In October 2008 the Council of Australian Governments agreed to this new consumer policy framework. Work on developing the legislation continued apace during 2009. The Commonwealth as the lead legislator passed the template legislation in mid 2010. The States and Territories are in the process of passing laws that will apply the Australian Consumer Law as a law for each jurisdiction. The New South Wales Government signed the Intergovernmental Agreement for an Australian Consumer Law in July 2009 and agreed to commence the Australian Consumer Law on 1 January 2011, the date set out in the National Partnership Agreement to Deliver a Seamless National Economy.

At one time there was a suggestion that the national consumer law should be a Commonwealth law, with all responsibility transferred from the States and Territories. New South Wales strongly opposed that suggestion. The first consumer protection legislation was introduced in the States of Victoria and New South Wales in the 1960s. Today New South Wales Fair Trading has a service delivery focus and strong local presence. There are 24 Fair Trading centres as well as 68 other service outlets in regional and remote New South Wales. In 2009-10 there were over 7.6 million requests for services by the community, including 1.2 million phone calls. Over 40,000 consumer complaints were received, with 89 per cent successfully resolved. This bill is an amendment to the Fair Trading Act. We have the best of both worlds.

The Australian Consumer Law will benefit the community by giving consumers the same rights and protections wherever they are in Australia, simplifying the law and reducing business compliance burdens, and creating a national enforcement regime, with consistent enforcement powers for Australia's consumer protection agencies to take effective action for consumers. The Fair Trading Act gives our State agency power to advise and educate consumers; take action for remedying infringements of, or for securing compliance with, all legislation administered by the Minister for Fair Trading; receive, investigate and refer complaints; and examine and research laws and matters affecting consumers.

Staff will continue to carry out these functions with respect to both the Australian Consumer Law and industry specific laws, such as those which regulate motor dealers and real estate agents. There are important linkages between service delivery staff and enforcement staff. For example, market intelligence gained through complaint handling and inspection services plays an integral role in informing compliance activity. This bill amends the Fair Trading Act to preserve and enhance the provisions that are important to New South Wales. The Products Safety Committee currently provides expert, independent advice to the Minister for Fair Trading on dangerous goods.

Although the Australian Consumer Law will introduce national product safety reforms, State and Territory Ministers retain the power to issue safety warning notices, impose interim bans and issue compulsory recall notices within their respective jurisdictions. The Fair Trading Act has been amended to ensure that the role and functions of the Products Safety Committee are aligned with the Minister's changed responsibilities under the Australian Consumer Law. Other amendments are designed to promote consistency and harmonisation in the administration of consumer protection and Fair Trading laws. The main example is the proposed Consumer Law Fund, which will be similar to the Victorian Consumer Law Fund. The fund will allow pecuniary penalties imposed by a court for conduct in contravention of the Australian Consumer Law to be used for the benefit of consumers generally, and will provide for the orderly disbursement of compensation to consumers directly affected by such misconduct. I commend the bill to the House.

Ms VIRGINIA JUDGE (Strathfield—Minister for Fair Trading, Minister for the Arts) [10.18 p.m.], in reply: I am delighted to speak to this hugely important bill. As members have heard, the Fair Trading Amendment (Australian Consumer Law) Bill 2010 is one of the most significant consumer protection reforms seen in our nation for a generation. As I have outlined, all governments have agreed to introduce an Australian Consumer Law that will be jointly administered by the Commonwealth, States and Territories. I take this opportunity to thank staff in my office, Clare Sneddon, and my chief of staff, Geoff Potts, for their assistance in bringing this bill to the House. I make particular mention of the Department of Fair Trading and I thank Susan Dixon and Rod Stowe. I want their names in *Hansard* so that later generations will know that they were partly responsible for bringing this bill to the House.

This is an initiative designed to provide greater national consistency in Australia's consumer law, its enforcement and the way in which the law is developed. Central to the proposals is the commitment of the States, Territories and the Commonwealth to work in a cooperative way. This bill amends the Fair Trading Act 1987 to apply the Australian Consumer Law as a law of New South Wales and provide for the administration and enforcement of the Australian Consumer Law in New South Wales. The bill also makes consequential amendments to the Fair Trading Act. It repeals the provisions that are superseded by the enactment of the Australian Consumer Law, and clarifies the interaction of existing enforcement and remedies provisions with those in the Australian Consumer Law. The bill amends the Fair Trading Act to promote harmonisation and national consistency in the administration of consumer protection and fair trading laws.

I turn now to some of the issues raised by the member for Albury. The member referred to the fact that consultation on the bill was insufficient. However, this argument cannot be sustained. The Productivity Commission encouraged maximum public participation in its inquiry into Australia's consumer policy framework. More than 250 written submissions were received and two rounds of public hearings were conducted throughout Australia over 14 days. In 2009 a public consultation paper entitled "An Australian Consumer Law: Fair Markets, Confident Consumers" received 95 submissions. Late in 2009 a consultation regulation impact statement on best practice and product safety reforms was released for public comment. Also in 2009, the Commonwealth Consumer Affairs Advisory Committee held general and targeted public consultation while developing proposals for the new consumer guarantees. The Senate economics legislation committee held four public hearings and received 67 submissions on the Australian Consumer Law bill. Some very important amendments were made as a result of stakeholder submissions. We listened, we heard, and we acted.

The member for Albury also claimed that the product safety provisions have been available since the Commonwealth legislation was passed in July this year. That legislation was subject to robust consideration in the Federal Parliament, including an inquiry by the Senate economics committee. I am pleased to acknowledge that the national consumer law will also include reforms to the national product safety framework agreed to by the Council of Australian Governments in 2008. The objective of the reform was to "put in place a robust, efficient, cost-effective national product safety regime across Australia". Consumer law and product safety are part of a much broader range of reforms being undertaken by the Council of Australian Governments. All these reforms present potential savings for business and consumers, by reducing duplication, complexity and cost.

The regulation of consumer product safety is currently the joint responsibility of the Commonwealth, States and Territories through the Trade Practices Act 1974 and fair trading legislation. For some years business and consumer advocates have been critical of the lack of uniformity in legislation and administration. The Productivity Commission undertook research and published a report entitled "Review of the Australian Product Safety System" in January 2006. The commission found that a strong case existed for national uniformity in the regulation of consumer product safety, and it recommended a single law and regulator model be adopted on a national basis. The commission also acknowledged that the ability to deal quickly and locally with an unsafe product was a concern of the States and Territories. Indeed, it is. The commission recommended that if the single law-single regulator approach was not adopted, there would be merit in a modified approach, with the States and Territories retaining the power to impose interim bans only. To its credit, it was this one law, multiple regulators model that the Council of Australian Governments agreed to. The reform deliverable was recorded as:

COAG agrees to the Commonwealth assuming greater responsibility for regulating product safety. States could retain the power to impose interim product bans.

In fact, it is the States—and particularly New South Wales—that are active in this field and that are at the forefront of product safety, particularly where the safety of children is concerned. I know that my department and my compliance officers have worked very hard over a long period to make sure that we do our very best for New South Wales consumers.

I now refer to unsolicited consumer agreements. In the case of telemarketing and door-to-door selling, significant State and Territory laws existed and harmonisation was desirable. The unsolicited selling provisions in the Australian Consumer Law are intended to create a national regime to regulate a wide range of transactions. This is an area in which there is considerable potential for exploitation and consumer harm. The law is designed to avoid the need for ongoing legislative catch-up to deal with innovations in harmful practices. The Australian Consumer Law also recognises that there are many forms of legitimate and largely trouble-free instances of unsolicited sales at home, on the phone or online, and for this reason exemptions are allowed.

The direct selling industry made a cogent case for exemptions, and the regulations reflect this. Some exemptions will sunset after 12 months, and during the intervening period the Australian Consumer Law requirements will be reviewed. I assure the member for Albury that New South Wales will be actively working with the other jurisdictions to resolve the matter in the best interests of consumers and legitimate businesses. In conclusion, I thought I might enlighten the member for Albury, the shadow Minister for Fair Trading. NSW Fair Trading is continuing the fight against unethical itinerant traders across the State. Investigations are continuing into several recent cases, and a television campaign has been instigated to educate consumers to avoid contracting with these unscrupulous traders. Indeed, I believe the campaign has been very successful. Fair Trading apprehended a group of unscrupulous traders in Warrimoo, in the Blue Mountains, earlier this year. 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.

Passing of the Bill

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

GREENHOUSE GAS STORAGE BILL 2010

Bill introduced on motion by Mr Barry Collier, on behalf of Mr Steve Whan.

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.26 p.m.]: I move:

That this bill be now agreed to in principle.

The Greenhouse Gas Storage Bill 2010 represents an important and significant step by the New South Wales Government to reduce greenhouse gas emissions in this State. The bill establishes a regulatory framework for the injection and permanent storage of greenhouse gases, such as carbon dioxide, in deep underground geological reservoirs. This Government is committed to reducing the State's greenhouse gas emissions to 60 per cent of year 2000 levels by 2050. Greenhouse gas injection and storage has the potential to make a significant contribution to the reduction of emissions. The storage of greenhouse gases has particular relevance for New South Wales because we generate nearly 90 per cent of our electricity from coal-fired power stations. Energy generated from coal is efficient, safe, reliable and relatively cheap, but the process emits around 63 million tonnes of greenhouse gases into the atmosphere each year.

New South Wales is also home to important industries that require substantial amounts of energy to manufacture products such as steel, aluminium, and cement. Greenhouse gas storage technologies will play a significant role in providing reliable, and environmentally sustainable, electricity in a future carbon-constrained world. These technologies have the potential to eliminate the majority of emissions from coal-fired power stations. The technology for the individual components for greenhouse gas capture and storage is well understood. Compression, transport, injection and underground storage of gases for industrial purposes already takes place, and has done so for a considerable time. At the Weyburn project in Canada, it is anticipated that 35 million tonnes of carbon dioxide will be permanently sequestered by 2035.

Sleipner, off the coast of Norway, is another example. It is the world's largest carbon dioxide storage, with one million tonnes of carbon dioxide being buried yearly for the past 10 years. In addition, the Otway demonstration project in Western Victoria is showing how all the steps for greenhouse gas storage work together. New South Wales has its own demonstration project under way. The Delta Demonstration Project aims to demonstrate post-combustion capture, transport and permanent storage of carbon dioxide emitted from a coal-fired power station. The passage of this legislation is essential for this project to proceed.

New South Wales will not be the first to legislate for the injection and permanent storage of greenhouse gases. The Commonwealth, Queensland, Victoria and South Australia already have legislation in place. In addition, the Ministerial Council on Mineral and Petroleum Resources has developed the Australian Regulatory Guiding Principles for Carbon Dioxide Capture and Geological Storage to ensure a consistent national policy approach. The regulatory guiding principles make it clear that the welfare of the community and the environment must be primary considerations in any regulatory framework. The principles emphasise the need for clear processes for the monitoring and verification of stored gases in order to effectively manage any environmental, health and safety or economic risks. The principles also recommend that any regulatory framework should provide certainty for existing titleholders of both surface and sub-surface rights.

The Greenhouse Gas Storage Bill 2010 is consistent with the ministerial council's regulatory guiding principles. In keeping with those principles the bill draws on the regulatory framework in the Mining Act 1992. There are, however, some key regulatory differences between this bill and the Mining Act. These are necessary to deal with the long-term geological storage of gases deep below the earth's surface. They include: a process for assessing the capacity of potential storage reservoirs; a process for monitoring gases and site closure; and a framework to deal with long-term liability. I turn now to the provisions in the bill.

The bill establishes a rigorous process to determine whether a geological reservoir is suitable for the permanent storage of greenhouse gases. An "approved reservoir" is a geological formation that the Minister has declared to be suitable for the permanent storage of greenhouse gases. A reservoir will need to be approved for permanent storage before an injection project can proceed. Generally speaking, such a reservoir would be more than 800 metres underground. When seeking to have a reservoir approved for storage, an applicant will be required to satisfy an extensive technical assessment. The Minister will be able to call on technical experts to

assist in the assessment by appointing an expert advisory panel to investigate and report on reservoir potential. Before making a declaration, the Minister must also consult with the Minister for Water on the hydrogeological and geochemical characteristics of the reservoir, and the land in which it is located.

In addition, the Minister must ensure that there are no competing interests that would conflict with the exercise of rights under an injection lease. A "competing interest" is defined as an existing petroleum or mining title over the land in which the reservoir is located. The legislation encourages applicants for an approved reservoir to enter into an agreement with existing titleholders to resolve any competing interests. The resource potential of an area can be maximised by allowing titles to coexist. For example, the parties may be able to agree on different time frames for their projects or may be able to work in different rock strata. Currently, under existing mining and petroleum legislation, the Minister has the power to cancel part of a title if this is in the public interest. The bill proposes that this power could be used if it is in the public interest to grant an injection lease over land that is subject to a competing petroleum or mining title. Such a situation could arise if, for example, the number of appropriate reservoirs available in New South Wales proves to be limited.

The bill makes it clear when a reservoir cannot be declared as an approved reservoir. A reservoir is not suitable for the permanent storage of greenhouse gases if there is any risk of the gases escaping into the atmosphere in quantities that could have a detrimental effect on public health and safety or on the environment. A further important provision relating to reservoirs is also provided for in the bill. With mining or with petroleum extraction, once the land is rehabilitated it again becomes the responsibility of the landholder. Given that greenhouse gases are stored permanently in the land the bill provides that approved reservoirs are the property of the Crown. This will ensure that landholders do not bear any liability for the stored gases.

The bill establishes a system of greenhouse gas authorities. These authorities will provide for the orderly administration of the industry, just as mining and petroleum authorities do for those industries. Authorities provide certainty for industry and for landholders by making their rights and responsibilities clear. Greenhouse gas authorities will provide for the responsible management of activities associated with this new industry through the application of statutory and administrative conditions. Authority holders will be required to meet requirements regarding public health and safety, protection of the environment, and reporting at every stage of a project. The three main authorities in the bill provide for prospecting or exploration, an assessment or holding stage, and for the injection of gases into an approved reservoir.

Prospecting permits will allow companies to carry out the necessary exploratory work to locate viable geological formations for the permanent storage of greenhouse gases. There will be two classes of assessment leases. A class 1 assessment lease will allow the authority holder to retain rights over an area where an approved reservoir has been declared. It will allow an authority holder time to locate a commercial source of greenhouse gas if one is not available when the reservoir is approved. A class 2 assessment lease will allow an authority holder to retain rights over an area where a potential reservoir has been declared, but a competing interest prevents injection activities proceeding.

Injection leases enable the work involved in injecting carbon dioxide and other greenhouse gases into approved reservoirs to be carried out. There are several critical requirements that must be satisfied before the Minister can grant an injection lease. As the House has already heard, first, the relevant reservoir must be approved for the permanent storage of greenhouse gases. Secondly, the proposed lessee must lodge an application that includes the necessary plans: an operational plan, and site plans and site closure plans for each injection site. The operational plan covers the entire area of an injection lease and sets out the planned injection and monitoring work that will be undertaken. The plan must also identify what measures will be taken, first, to protect the health and safety of those employed in the area and the general public; secondly, to protect the environment; and, thirdly, to rehabilitate the area when injection and monitoring work has been completed.

The site plan will identify the injection and monitoring plant that is required for each injection site. The site closure plan will identify how an injection site will be closed once injection work ceases. The plan must include what measures are to be taken, first, to decommission and remove the injection plant; secondly, to plug or seal any underground bores or shafts; and, thirdly, to rehabilitate the site. The plan will also need to detail how the gases should be behaving during the closure period and what monitoring plant will continue to monitor the gases after the injection site has been closed. The Minister must be satisfied that the proposed operational plan and the proposed site closure plans contain appropriate measures to protect public health and safety and the environment before an injection lease can be granted. Finally, the injection project will need approval under part 3A of the Environmental Planning and Assessment Act 1979 before an injection lease can be granted.

The legislation also proposes two further authorities: a supplementary authority and a research permit. A supplementary authority allows a person to carry out additional work in an area outside the greenhouse gas authority with which it is associated. For example, a supplementary authority might be needed by an injection lease holder to monitor how the injected gases are behaving in area that is outside the injection lease. The purpose of a research permit is to allow pre-competitive prospecting work to be carried out by universities or government.

The legislation will provide for the orderly allocation of authorities. It will do this by providing for the Minister to invite applications, through a tender process, for prospecting, assessment or injection authorities over specified land. Authorities will be granted to the applicant who best meets the requirements in the invitation. However, before granting an authority the Minister must be satisfied that the applicant has the resources and expertise to carry out the relevant work. The bill also provides for the Minister to invite applications from specific people or companies. This will facilitate pilot and demonstration projects in the short term.

I now turn to the process in the bill which deals with the closure of injection sites. This process is necessarily a rigorous one to ensure that the injected gases are behaving as predicted. This is important to ensure public health and safety. It is also important because the bill provides for the Crown to assume liability for the stored gases once an injection lease is cancelled. On completion of the closing down of an injection site in accordance with the site closure plan, the leaseholder may apply to the Minister for a site closure certificate. The Minister can issue a certificate only if he or she is satisfied that the injection site has been closed in accordance with the closure plan. In addition, the Minister must be satisfied that the stored gases are behaving as predicted in the site closure plan.

The Minister is able to establish an expert advisory panel to investigate and report on matters associated with the site closure process. If not satisfied that the gases are behaving as predicted, the Minister can direct the leaseholder to carry out certain work to control the behaviour of the gases. In such circumstances, the Minister can delay the issue of a site closure certificate. It is anticipated that the site closure process may take some years, given the nature of the requirements that must be satisfied before a site closure certificate can be issued. Once a site closure certificate is granted for each of the injection sites in the lease area, the leaseholder can apply for the injection lease to be cancelled. Once the injection lease is cancelled, the Crown will assume long-term liability for the stored gases.

It is for this reason that the site closure certificate and cancellation processes must be rigorous. They are designed to ensure that the integrity of the reservoir and the behaviour of the stored gases have been fully assessed before the Crown assumes liability. Until the lease is cancelled, the leaseholder remains responsible for the gases. The bill provides that leaseholders will indemnify the Crown in relation to any liability incurred by the Crown arising as a result of the leaseholder's fraud or negligence. However, it is not considered reasonable or practical that where leaseholders have fulfilled all obligations under the legislation they remain responsible for the stored gases in perpetuity. The assumption of long-term liability by the Crown and associated long-term monitoring of the stored gases are the basis for a further provision in the bill.

Monitoring equipment and bores will become critical infrastructure for the State to effectively monitor stored gases in the interests of public health and safety. Given that monitoring is likely to be required for generations to come, acquisition of the land on which monitoring sites are located may be required in some circumstances. The bill, therefore, provides a power for the Minister to acquire land by agreement or compulsory process, in accordance with the Land Acquisition (Just Terms Compensation) Act 1991. The areas of land that may need to be acquired for monitoring are likely to be small and will have been utilised by the injection lease holder for monitoring for many years. However, the Government is committed to ensuring that affected landholders are on notice from the earliest point possible in the process that their land may be permanently required for monitoring. In this regard, the Minister will be required to notify affected landholders during the injection lease application process.

The bill provides for the establishment of a statutory Greenhouse Gas Safety Fund, which will be funded by industry. This fund will be used to cover any unforeseen liabilities arising after the lease has been cancelled, when the State becomes responsible for the reservoir and the stored gases. The Greenhouse Gas Safety Fund will be used to cover the costs that may be incurred by the State in the future. These costs include monitoring stored gases, maintaining and operating a monitoring plant, the acquisition of monitoring sites and covering any unfunded liabilities. The fund will also be available to cover the cost of work by the Government to address a situation where a leaseholder has failed to comply with a direction.

I make it very clear to the House that the surface land use impacts of greenhouse gas injection will be very minimal. Injection sites will be similar in size to petroleum wells. Monitoring sites will vary in size from a bore with monitoring equipment to a site at which computer equipment will be used to take samples from time to time. In addition, the number of viable reservoirs that are expected to be identified throughout the State may be limited. The storage of greenhouse gases will not take place under or on the surface of national parks.

Importantly, the bill makes provision for the rights of landholders. These rights are modelled on those in the Mining Act 1992. The holder of a prospecting licence, assessment lease or injection lease will be able to carry out prospecting work only in accordance with an access agreement. An access arrangement is an agreement negotiated between the greenhouse gas authority holder and the owner of the land. When an agreement for access between a landowner and an authority holder cannot be reached, provision is made for arbitration. Further, either party may apply to the Land and Environment Court for a review of an arbitrator's determination. The bill also provides that an injection site cannot be constructed over land on which a dwelling house, garden or other significant improvement is located without the prior written consent of the owner. If the occupant of the house is not the owner, that person's consent must also be obtained.

Landholders will be entitled, as they are under the Mining Act, to fair compensation if their interests are adversely affected by the exercise of rights under a greenhouse gas authority. The bill provides a framework for an authority holder and land owner to negotiate an agreement in relation to compensation. If this fails, either party in the case of an access arrangement may proceed to arbitration or otherwise seek an assessment by the Land and Environment Court. The compensation assessment procedures are set out in the bill.

I now turn to the issue of enforcement. It is critical that a bill of this nature has a robust compliance and enforcement framework. These powers reinforce community confidence in the legislation. The enforcement and compliance framework in the bill reflects that of the Mining Act 1992, as amended by the Mining Amendment Act 2008. Firstly, the bill requires greenhouse gas authority holders to notify the director general in the event of a "serious situation". Appropriately high penalties, similar to those in the Protection of the Environment Operations Act 1997, apply if an authority holder fails to meet this obligation.

A serious situation exists if greenhouse gas appears to be leaking, or is about to leak, from a reservoir or the equipment used to inject the gas into the reservoir. A serious situation also exists if the stored gas is behaving, or is about to behave, otherwise than as predicted in the operational plan. In addition, a serious situation exists if the integrity of the reservoir has been compromised, or the reservoir is no longer suitable for permanent storage of greenhouse gases. The director general has the power to direct an authority holder to rectify a serious situation.

The bill also provides for the director general to direct an authority holder to give effect to a condition of an authority. A direction can be given to an authority holder to address any adverse impact from activities under the authority, or the risk of such impacts, on public health and safety or the environment. As well, directions may be given to conserve the environment or to rehabilitate any land or water affected by activities. The director general will also have the power to suspend greenhouse gas storage operations in certain situations. The bill further provides for the powers of inspectors to ensure authority holders' compliance with the legislation.

As well, the Minister may impose a mandatory audit condition on an injection lease requiring one or more audits to be undertaken. The purpose of a mandatory audit is to ensure compliance with the obligations under a lease or any other requirements under the bill or other Act or law. A mandatory audit is a documented evaluation of the work carried out under an injection lease and can include an examination of management practices, systems and plant. The bill seeks to reinforce compliance by providing for indictable and summary offences. Indictable offences include interference with injection or monitoring plant or injection or monitoring work, as well as a failure to report a serious situation.

The greatest penalty amount—\$1 million—is proposed where there is a failure to report a serious situation on the part of a corporation. This penalty reflects the potential for serious risk to the environment to occur if such an offence is committed. In addition, if injection activities take place without the authority of an injection lease or if a gas leak occurs contrary to the terms of an injection lease, the full range of offences and penalties under the Protection of the Environment Operations Act 1997 will apply.

The community should have access to data on storage sites and the gases stored. To this end the bill provides that the director general must keep records relating to all greenhouse gas authorities and applications. The records will be made available for inspection by the public. The bill also requires the director general to

maintain various registers: a register of reservoirs, a register of interests and a register of greenhouse gas authorities. All of these registers will be available for inspection by members of the public. The bill provides for financial obligations for authority applicants and holders. Before an application will be processed applicants will be required to pay a fee to cover administration costs.

In addition, as part of the grant of an authority, a security deposit must be lodged against failure to meet certain obligations. These obligations include the closure of injection sites; maintaining and operating permanent monitoring plant; and satisfactorily completing surface rehabilitation. Once the relevant obligations are completed the security will be returned. In addition, the bill enables a royalty to be imposed on the quantity of gases injected into a reservoir. The payment of a royalty acknowledges the value of the State's resource that is being accessed. It also ensures that the community shares in any profits associated with the use of the resource. The regulations will prescribe the rate at which the royalty is to be payable.

The Government is mindful at this stage that a royalty may operate as a disincentive to storage in the short term. Greenhouse gas injection and storage is an emerging technology which, if proven commercially viable, has the potential to provide significant benefits to the State. On this basis, the Government will consider initially setting the royalty at a level that will facilitate innovation and investment in the technology. The Government's greenhouse gas injection and storage policy and the legislation arising from the policy have been extensive. The Government released a detailed position paper in August this year for public comment. The position paper clearly set out the legislative framework that is the basis for this bill.

The Government received seven submissions. Four submissions were received from industry groups and three were received from Commonwealth Government agencies. All of the submissions were supportive of this Government's approach. In addition, the Department of Industry and Investment has consulted with other agencies over the course of the last year in developing the bill. This was particularly important to ensure the legislation is effectively integrated with existing legislation such as the Environmental Planning and Assessment Act 1979 and the Protection of the Environment Operations Act 1997. The department will continue to work with other agencies, industry and the community in the development of regulations to support the legislation in 2011.

This proposed legislation marks a significant step by this Government in its goal to reduce greenhouse gas emissions. The Greenhouse Gas Storage Bill 2010 provides a responsible, effective and practical regulatory framework for the storage of greenhouse gases in approved underground reservoirs. It takes all the necessary precautions to ensure public health and safety and the protection of the environment. It will also confirm New South Wales as an active participant in developing, testing, and embedding methods and technologies for greenhouse gas injection and storage. In this regard it will position New South Wales alongside the Commonwealth and other States, such as Queensland and Victoria. Greenhouse gas injection and storage can provide an effective, long-term solution to emissions from stationary power sources in New South Wales. This is important to enable New South Wales to continue to provide reliable and relatively cheap electricity while significantly reducing the impacts on the environment from greenhouse gas emissions. I commend the bill to the House.

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

The DEPUTY-SPEAKER: Government business having concluded, and in accordance with the resolution of 23 November 2010, the House will now consider the matter of public importance.

WHITE RIBBON DAY

Matter of Public Importance

Ms NOREEN HAY (Wollongong—Parliamentary Secretary) [10.54 p.m.]: I would like to speak about a very significant day. Tomorrow is International Day for the Elimination of Violence against Women—known as White Ribbon Day—and is marked to raise wide-scale awareness of violence against women. Parliaments, businesses, organisations and individuals around the world will stop tomorrow to acknowledge this global pandemic. Tragically, up to three-quarters of women and girls worldwide experience physical or sexual violence in their lifetime. This level of violence is unacceptable. On 20 December 1993 the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women, recognising an urgent need to protect the rights of women throughout the world to live with equality, security, liberty, integrity and dignity.

On 17 December 1999, the United Nations General Assembly designated 25 November as the International Day for the Elimination of Violence against Women and invited governments, international organisations and non-government organisations to organise and support activities designed to raise public awareness of the issue on that day. In New South Wales and across Australia we recognise this international event as White Ribbon Day. The focus of White Ribbon Day is on prevention. In particular, the White Ribbon Campaign mobilises primary prevention strategies that attempt to address the underlying and structural causes of the violence. By engaging men as part of the solution the White Ribbon Campaign aims to challenge the cultural norms that inform the attitudes and behaviours that result in some men being violent towards women.

The roots of violence against women lie in historically unequal relations between men and women and persistent discrimination against women. In many respects that remains the case today. To free women from violence we need to overturn the remaining barriers women continue to face in obtaining equality in all aspects of economic and social life. As a Government we are committed to building an equitable, inclusive and safe society in which all women are valued and respected, where they can contribute meaningfully and where they are able to enjoy the rights, freedoms and protections to which everyone in New South Wales is entitled.

In New South Wales most women who experience violence experience it in their home by men that they know. Between July 2009 and June 2010 there were almost 26,000 recorded domestic violence assaults in New South Wales. Men committed 88 per cent of those assaults. Aboriginal women experience around 8 per cent of domestic violence assaults in New South Wales, making them six times more likely to experience an assault than non-Aboriginal women. Between July 2009 and June 2010 there were almost 4,500 sexual assaults in New South Wales. Of these, 84 per cent of victims were female and 13 per cent were young boys under 18 years of age. Ninety-eight per cent of these sexual assaults were committed by men. Tragically, these numbers are conservative estimates. It is likely that the true numbers are three, possibly four, times higher as it is estimated that only 30 to 35 per cent of sexual assaults in New South Wales are reported to the police.

White Ribbon Day 2010 will focus on creating awareness that positive male role models are essential to the prevention of violence against women, and that by wearing a white ribbon on that day men will be sending a message of support for the elimination of violence against women. Each year in support of White Ribbon Day, the New South Wales Government, through the Office for Women's Policy, funds local domestic and family violence awareness-raising activities through the Local Domestic and Family Violence Small Grants Program. This program provides funding to Local Domestic and Family Violence Committees to assist them with their activities that commemorate White Ribbon Day and the 16 Days of Activism to Stop Violence against Women campaign, which runs until 10 December.

This year communities across New South Wales will run events including multimedia arts events, awareness-raising at local sporting events, fundraising events, the release of a "say no to domestic violence" calendar, as well as a range of seminars and workshops at schools, workplaces and community halls. The Wollongong Hawks basketball team will commemorate White Ribbon Day at a game to be played on 26 November. As well as presenting information about the issue, volunteers will be selling white ribbons and promoting local services.

The Government provides \$2.9 million each year to support non-government organisations' domestic and family violence projects under the Domestic and Family Violence Grants Program, including \$900,000 for projects in Aboriginal communities. I am pleased to say that the implementation of these actions is now well under way. Already operating with \$2.2 million through the Action Plan are five domestic violence proactive support services [DVPASS] in Redfern, Marrickville, Wollongong, Canterbury-Campsie and Sutherland. The services involve a domestic violence support worker being located in or near a police station to assist victims of domestic violence through the process of making a statement, attending court and providing case management to identify and address other needs such as accommodation and financial and legal assistance. In addition, \$1.5 million has been allocated to expand the DVPASS or similar projects to Armidale-New England, Coffs Harbour, Eastern Suburbs, and Rockdale, Kogarah and Parramatta, which are areas of high need.

The Government has also allocated \$2.4 million to expand the Domestic Violence Practitioner Scheme to an additional 15 court regions across New South Wales. These courts are in areas with high rates of apprehended domestic violence orders being sought and a strong demand for legal and support services for women seeking those orders. It is also expanding the Rural Women's Outreach Program to an additional two locations, including one with an Aboriginal-specific focus, and bolstering the capacity of the program in its existing two locations. The program provides legal advice, community legal education and support to women in

remote and rural locations who otherwise might not have access to these services and support. The New South Wales Government has acted swiftly to implement the recommendations of the Domestic Homicide Advisory Panel.

Ms PRU GOWARD (Goulburn) [11.01 p.m.]: I support this motion with pleasure. Tomorrow is the International Day for the Elimination of Violence Against Women. The focus of this commemoration in Australia has been on men. That may be because of the history of White Ribbon Day, which was established by a group of Canadian men in 1991 on the second anniversary of a man's massacre of 14 women in Montreal. The White Ribbon campaign has gradually merged with the United Nations' International Day for the Elimination of Violence Against Women, which is commemorated on 26 November. The white ribbon has become the symbol of that day.

In 2000, the Howard Government organised awareness activities on 26 November and three years later the United Nations Development Fund for Women, known as UNIFEM, established a wonderful partnership with men and men's organisations to initiate a national campaign. They distributed 10,000 white ribbons in 2003 and I have no doubt that many more will be distributed in 2010. It is remarkable the rapidity with which this movement and the message about the role of men in preventing violence against women have spread. As the Secretary-General of the United Nations, Ban Ki-moon, stated:

As we observe the 2010 International Day for the Elimination of Violence Against Women, let us acknowledge the widespread and growing efforts to address this important issue.

No longer are women's organisations alone. From Latin America to the United States, from Asia to Africa, men and boys, young and old, musicians, celebrities and sports personalities, the media, public and private organizations, and ordinary citizens are doing more to protect women and girls and promote their empowerment and rights.

The social mobilization platform "Say NO-UNiTE" has recorded almost 1 million activities implemented by civil society and individuals worldwide.

The member for Wollongong referred to activities that will be held in her electorate. The Goulburn domestic violence dinner was held about a week ago and we raised an enormous amount of money for domestic violence charities. The Bowral Domestic Violence Committee dinner will be held next February—we had a clash of dates in Bowral. I am sure that these activities are being replicated in electorates across New South Wales. That is part and parcel of engendering support for the movement and raising money. However, it also encourages men to think about the role they can play by saying no to violence and to pledge that they will not be violent towards women or stand by men who are. A public swearing ceremony and breakfast will be held at 7.30 a.m. tomorrow at Parliament House. The White Ribbon campaign is calling for one million Australian men to swear.

Mr Robert Coombs: I'll be there.

Ms PRU GOWARD: I am glad that some members in the House will be there. They can take their oath alongside the White Ribbon campaign chairman Andrew O'Keefe, other parliamentarians, sportsmen and White Ribbon ambassadors. I trust that many men will take part in that ceremony.

Without the efforts of both men and women I fear much that domestic violence will remain a scourge. Men must declare their abhorrence of domestic violence along with women. Some in the men's movement seem to believe that domestic violence is a weapon with which women attack men and that they fail to recognise that men are also victims of domestic violence. That is true, but the overwhelming majority of victims of domestic violence are women. About 80 per cent of domestic violence-related homicides involve men murdering women.

The issue is much more complex than that. We must instil confidence in men who have witnessed domestic violence as children. They might have been brought up to believe that it is okay to hit their wife. Similarly, some women have been brought up to accept being hit. They must recognise that that is not acceptable behaviour and that they can and must stop that cycle of violence. Tomorrow morning men who participate in the swearing ceremony will say, "I swear never to commit, never to excuse and never to remain silent about violence against women." We know that, like bullying and harassment at school, people must deal with peer pressure, but they must not stay silent when they witness domestic violence. That can be a problem given the camaraderie that can exist between men.

The International Day for the Elimination of Violence Against Women must not go by without our reminding men and women that this is not only about the right of women to live safely and with dignity in their own home; it is also about the right of children to grow up in a peaceful and secure environment. Research

indicates that small children who witness repeated acts of violence while their brains are still forming can suffer irreparable damage that can make them dysfunctional adults. While visiting the Goulburn Correctional Centre I asked a prison psychologist what percentage of the inmates would have witnessed domestic violence as children. She replied, "All of them." Domestic violence has a terrible impact on a child's brain and their expectations and behaviour. It is crucial for their future and for the safety and security of adults that White Ribbon Day is recognised and that we all appreciate the importance of safety and security and non-violent approaches to addressing conflict and differences.

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [11.08 p.m.]: As my colleague the member for Wollongong has said, tomorrow is a significant day around the world. Tomorrow signals the commencement of the 16 Days of Activism to Stop Violence Against Women campaign—with the final day, 10 December, marking World Human Rights Day. The 16-day campaign is used by individuals and groups to call for the elimination of all forms of violence against women. The campaign raises awareness about gender-based violence as a human rights issue at the local, national, regional and international levels; strengthens local work around violence against women; establishes a clear link between local and international work to end violence against women; and provides a forum in which organisers can develop and share new and effective strategies.

White Ribbon Day garners a great deal of support among governments, including this Government, but its true strength lies in its grassroots community involvement. Across the State, local domestic violence networks are working to organise White Ribbon Day activities that highlight the ongoing injustice of violence against women. The New South Wales Government is pleased to provide support to each and every local domestic violence committee that applies for small grants to undertake awareness-raising activities for White Ribbon Day and for the 16 Days of Activism. These local committees—made up of committed Government and non-government workers—will be setting up stalls in shopping centres, distributing white ribbons and information leaflets, hosting dinners, barbecues and breakfasts, and running seminars and information days. They will be doing this because they are determined to put an end to violence against women.

In the Illawarra region, a number of activities are occurring with the support of the New South Wales Government's \$1,000 grants, including an event focusing on inspiring men to take a stand against violence against women, and celebrating the work of the local domestic violence sector; and the New South Wales Government recognises the crucial role of the non-government sector in preventing and responding to domestic and family violence throughout the year. These grassroots organisations are at the forefront of tackling domestic violence and supporting victims. Often the most effective way for government to make a difference is to support local community initiatives and local community organisations. They know their local needs and are best placed to identify solutions.

I pay tribute to the amazing and inspirational work that community groups do in addressing violence against women and minimising its impact, particularly the groups in the Illawarra. One community project that continues to provide results is Tackling Violence, run in partnership with Mudgin-Gal Aboriginal Women's Organisation. This project builds on the passion for rugby league in many Aboriginal communities, and signs up local teams to sponsorship agreements that include commitments to stamp out violence against women. As part of the sponsorship agreement each team agrees to a code of conduct with penalties should a player commit a domestic violence related offence; participates in a radio and television campaign throughout the season; and wears the Let's Tackle Domestic Violence badge on their jerseys and on display signage at their home games; participates in domestic violence education delivered by Mudgin-Gal Aboriginal Corporation and Tackling Violence ambassadors including football players such as David Peachey, Tony Butterfield, Ricky Walford and Nathan Blacklock; and becomes affiliated with the Good Sports Program, an initiative of the Australian Drug Foundation to help sporting clubs manage alcohol responsibly and reduce alcohol-related problems such as binge drinking and underage drinking as well as alcohol-related violence.

The New South Wales Government is providing almost \$500,000 in funding support for this project in 2010 and that has allowed the number of participating clubs to increase from six in 2009 to 15. But this is more than just providing sponsorship dollars for needy local clubs. This project also offers local Aboriginal young men the opportunity to be leaders in their community, to be role models to young players coming through and to do something to make their communities, safer, stronger and better places to live with their families. The former NRL players who joined the program as Tackling Violence Ambassadors have undertaken domestic violence training themselves so that they can work directly with players, young people and communities to deliver information and education on domestic violence. The ambassadors together with Mudgin-Gal Aboriginal Women's Organisation educators are working with clubs, women's groups and local high schools to deliver their

anti-violence messages, and information on where to seek help. White Ribbon Day and the 16 Days of Activism campaign draw strength from the commitment of community workers and individuals who are prepared to make a stand and say violence against women is not okay. Let us join them in that, and say 'No, Never, Not on'.

Ms NOREEN HAY (Wollongong—Parliamentary Secretary) [11.13 p.m.], in reply: I acknowledge the contributions to this discussion from the member for Goulburn and the member for Shellharbour. Domestic violence is outlawed by all sides of this House, male and female. It can be seen that at times like this we all work together to provide better outcomes. The New South Wales Government has acted swiftly to implement the recommendations of the Domestic Homicide Advisory Panel. The panel's job was to examine the issue of the domestic violence homicide review mechanism in the context of the response to the report of the Special Commission of Inquiry into Child Protection Services in New South Wales. I am pleased the Government has committed \$504,000 this financial year to set up the Domestic Violence Death Review Team, and ongoing funding will be provided after that to ensure the mechanism continues to do its important work.

The Domestic Violence Death Review Team, based in the office of the New South Wales Coroner, will convene a panel of experts to review domestic violence and deaths, to consider whether any systemic failures may have contributed in some way to the death, and to recommend actions for reform. The Government takes violence against women extremely seriously. It is a tragedy that a society can be developed in so many ways and be so primitive in others. This Government will always support events such as White Ribbon Day that create widespread awareness of the issue.

The grants program is now in its fourth year and provides funding to enable non-government organisations to deliver innovative projects that aim to prevent domestic and family violence or minimise its impact. The New South Wales Government is determined to make women and children's lives safer by stopping the violence and increasing support where it is needed. In June this year the New South Wales Government released the \$50 million New South Wales domestic and family violence action plan, Stop the Violence, End the Silence. The action plan is the Government's five-year blueprint for action and will lay the foundation for an integrated and coordinated whole-of-government response to combat domestic and family violence.

This action plan is part one of a two-stage strategy to prevent violence against women. Part two is the development of a sexual violence prevention plan. I understand work is well underway on this. The domestic and family violence action plan contains 91 actions aimed at reducing the prevalence of domestic and family violence in New South Wales and increasing community awareness that such violence is unacceptable and a crime. It also seeks to make sure that women and children receive the best possible responses when escaping violence, both in the short term and long term, and that these responses are consistent and integrated.

I encourage all of you, particularly the male members of Parliament, to wear a white ribbon tomorrow to send a clear message of support for the elimination of violence against women. I also acknowledge the work done on domestic violence in the Wollongong area by the Wollongong Women's Centre as well as the Wollongong Local Area Command and the Lake Illawarra Local Area Command and the domestic violence workers there. I look forward to seeing many white ribbons tomorrow and I encourage people to participate in displaying their opposition to domestic violence. We are looking to raise awareness so that, as the member for Goulburn said earlier, what may have been a tradition can hopefully be educated away, and we move forward hopefully to better days in relation to domestic violence.

Discussion concluded.

The DEPUTY-SPEAKER: Order! The matter of public importance having concluded, in accordance with the resolution of 23 November 2010, private members' statements will now be proceeded with.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL 2010

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

PRIVATE MEMBERS' STATEMENTS

BEECROFT BRIDGE CLOSURE

Mr GREG SMITH (Epping) [11.19 p.m.]: The closure of Murray Farm Road Beecroft will maroon thousands of residents. On 23 November 2010 I accompanied Michael Stove and Felicity Findlay, executive

members of the Beecroft/Cheltenham Civic Trust, to a meeting with roads Minister David Borger and a Roads and Traffic Authority officer, to discuss concerns over proposals by the M2 operators to close the Murray Farm Road bridge during the M2 upgrade for at least six months. We told the Minister that residents of Beecroft, Cheltenham, Epping and Carlingford who use the Murray Farm Road bridge to access Beecroft Road at Kirkham St will be severely inconvenienced by the closure of the bridge. Initially the building contractors, Leightons, had proposed to close only one lane to allow the flow of traffic to continue, although more slowly.

Closure would cause great inconvenience to virtually landlocked residents, particularly school students, pensioners, other elderly residents, shoppers and commuters. It would also close vital bus services. Apparently about 1,000 vehicle movements an hour occur over the bridge at weekday peak hours. The alternative routes to Beecroft from the landlocked area are limited to driving south to Ray Road, then to Beecroft Road at Epping and north to Beecroft, or west to Orchard Road, North Rocks Road, Pennant Hills Road to Copeland Road and down Copeland Road to Beecroft Road. Any of these diversions adds considerable inconvenience and delay.

The Beecroft Trust has already attracted local media attention in the *Northern District Times*, with an article entitled, "Bridging Beecroft Divide will be hard". Local councillors had joined civic trust members on the bridge. At our meeting with the Minister, we emphasised that locals were most sceptical about time estimates for bridge closures, as a recent experience involved Beecroft rail bridge being closed for widening took more than 12 months, despite an estimate of a couple of weeks. Mrs Findlay and I pointed out the existing danger of the Beecroft Road-Kirkham Street intersection, the main route to the Murray Farm Road Bridge. Both the Beecroft Civic Trust and Hornsby Council have applied, unsuccessfully, on numerous occasions for traffic lights on this corner under the black spot funding scheme, so it was fraught with danger to be directing large volumes of traffic into this intersection. We pointed out also that this highlighted route passed at least six schools so the increased traffic volumes would be endangering many students.

The Roads and Traffic Authority officer alluded to alternative routes for traffic, but again it was pointed out that all these alternatives are already heavily congested in peak travel times. Mrs Findlay gave the example of it taking the better part of half an hour to travel in peak times from her home to the Carlingford Road-Beecroft Road intersection, a distance of about two kilometres. While Minister Borger gave us reason for hope that the closure of the bridge would not proceed, we will have to wait till the new year to find out. It is most unfair to residents whose access is threatened to have to live with this uncertainty.

In the last two years we won a tenuous victory to keep the buses running down Murray Farm Road. A number of senior citizens living in a retirement village in Midson Road purchased their units on the understanding that the bus route would continue to operate. The proposal was for the service to be discontinued, but we managed to keep the bus running though with a more restricted service. The problem many constituents face today is that some government officers make decisions that can have a major impact on the convenience of law-abiding citizens without consulting in advance or checking with residents in the affected area. This is one of the major reasons why people are upset with government or politicians; it is why the Keneally Labor Government has lost the confidence of the community.

People deserve to be shown respect and to be taken seriously. They should not be effectively marooned and greatly inconvenienced because a company which operates tollways wants to upgrade the M2 to increase its revenue and continue to pay senior officers exorbitant salaries. I urge the Minister to give this private member's statement careful consideration. Probably the contractors will push for the closure to go ahead but the residents of the area have already been affected by road closures onto Pennant Hills Road, so they are effectively marooned, as if they were on a desert atoll. These are hardworking people who, like the workers of this State, merely wish to get to work in a reasonable time. However, because of this change and the gridlocked roads around Epping caused by the narrowing of Epping Road and other measures, they suffer great inconvenience. Their enjoyment and quiet occupation of their properties has been undermined.

SUNFLOWER CONNECTION INC. AND CHRISTINE ALDRICK

Mr ROBERT COOMBS (Swansea) [11.24 p.m.]: It is my pleasure to inform the House at this late hour of the evening about a wonderful afternoon that took place on Monday 1 November 2010 at the Summerland Point Community Hall. The Federal member for Shortland, Jill Hall, friends and I were able to present to Christine Aldrick, head of Sunflower Connection Inc., a suicide prevention group, a carer's certificate. Christine was nominated by Carers New South Wales. A number of nominees were put forward but Christine stood out for her important role with a group that we are trying to ensure receives the necessary support and assistance. Unfortunately, statistics show that increasingly more young people—more than we probably

realise—especially those up to age 25, attempt suicide. The group was formed specifically to ensure that necessary prevention mechanisms are in place. For those who attempt suicide and survive, the group is available to provide the appropriate support and assistance to them and their families.

Christine volunteered her services to establish a small group of other volunteers to form a management committee of a charitable, non-profit organisation, Sunflower Connection Inc. The organisation fills the gap in the local area of support services for individuals and families who experience a person's attempted suicide or thoughts of suicide. Christine financed the organisation with her own money, except for the insurance money. I pay tribute to two of Christine's friends from the Iris Foundation, Bev Baldwin and Dawn Hooper, who raised the necessary money to ensure the organisation had the correct and appropriate insurance schemes in place.

Sunflower Connection has a mission statement, which basically states that the Sunflower Connection Inc. Survival of Suicide [SOS] support group offers individuals with suicidal tendencies a non-judgmental, safe and secure environment, encouraging empowerment for each individual, letting them know they are not alone. Suicidality is a serious issue for any individual to go through at any stage of their lives. These people can be helped to deal with their current situation by solving some of the problems that have caused the illness by providing support, healing, care, understanding and awareness, and to increase their sense of confidence and self-esteem, supporting them to manage their mental and physical health as best as possible. Communication can save lives. Suicide is not about death; it is about ending pain.

My research for this private member's statement has shown that some people are dismissive of people who, at some point, want to take their own lives. However, when one starts to drill down and begin to understand the reasons for the conditions, one can only feel grief and sorrow because they suffer distressing diseases. They certainly need the support of others; they require professional assistance to ensure that they do not take that last step. Of course, I accept that many great organisations already provide people who are suicidal with support, such as telephone counselling services. These organisations include Lifeline, Beyond Blue, Suicide Call Back service, the Black Dog Institute, Zane and the Mental Health Institute, to name a few. However, I highlight the magnificent work of Christine, who does not work in an easy field. I congratulate her and all who support her in this very important field of medicine.

MENTAL HEALTH WORKER SAFETY

Mr DONALD PAGE (Ballina) [11.29 p.m.]: I bring to the attention of the House the launch this coming Friday in Ballina of the Working Safe Toolkit. The toolkit is a new resource developed for people working in the mental health field and is aimed at making their visits to people's homes and neighbourhoods safer. The launch of this toolkit follows the death last year of 48-year-old Michael Corkhill, a healthcare caseworker with On Track Community Programs, an organisation that helps people with disabilities and mental health issues. Mr Corkill was violently murdered on 27 June 2009 in Lismore. He was making a visit to the offender's house. Earlier this year the offender was found not guilty of Mr Corkill's murder because of mental illness.

Working in the mental health sector is often complex and stressful for staff, and sometimes it is dangerous. I think it is important to recognise and praise the wonderful work that people involved in the mental health sector do in the community. Their commitment to their jobs is more often than not above and beyond what is required, and we as community representatives, and the broader community, should stop to think about the value of these people to the health system, and particularly to the patients they work with. I extend my sympathies to Mr Corkill's family and friends. The challenge for organisations and individuals is to make sure that the chances of such an incident happening again are minimised. I know this is difficult given the sometimes unpredictable nature of mental illness.

I was pleased to make representations to the North Coast Area Health Service and the Minister for Health on behalf of the Mental Health Interagency Northern Rivers shortly after Mr Corkill's death regarding the need to provide a safer working environment for people who work with those in the community who have a mental illness. I would like to think that my representations had some beneficial impact in highlighting the problem to Government and in the possible development of the Working Safe Toolkit.

The Working Safe Toolkit has been developed under the guidance of the Mental Health Coordinating Council [MHCC], the peak body for mental health in New South Wales. The council convened a reference group which included members from National Disability Services, WorkCover, Dr John Allan, the Chief Psychiatrist from NSW Health, and the Insurance Council. For many people working in the mental health sector

the majority of their work is carried out away from their office. The challenge for the Mental Health Coordinating Council was how to create a culture of mindfulness and safety for people who make home visits to clients, making workers risk-aware and better able to assess and manage potential dangers.

The Working Safe Toolkit presents staff with a checklist of questions to go through before embarking on a home visit. It also provides a list of things to do and not to do when arriving at a home visit. In some instances the danger could come from the neighbourhood itself, or an unrestrained dog or dogs, or perhaps there are drugs and alcohol in the neighbourhood, or neighbours are not welcoming visitors. The Working Safe Toolkit is aimed at reducing risk. Mental health problems are a leading cause of disability in Australia. The Australian Institute of Health and Welfare in its report "Australia's Health 2010" noted that, of the 714,156 people receiving the disability pension as at June 2007, more than a quarter had a psychological or psychiatric condition. The National Survey of Health and Wellbeing in 2007 estimated that one in five Australians between the ages of 16 and 85 experienced one or more of the common mental disorders.

On the NSW Health website there is a charter for mental health care. It basically sets out the rights of people with mental illness, who are some of the most misunderstood and disadvantaged people in our society. It is also important, however, to ensure that we are looking after the people who work and care for people with mental illness. I recently came across some notes on the Victorian Parliament's inquiry into strategies to reduce assaults in public places in Victoria. The final report of the inquiry found that more than one-quarter of people assaulted in the workplace were hospital staff. However, many incidents were not reported. These statistics would include mental health workers as well. I suspect that the figures for New South Wales would be comparable.

Mental illness will continue to be a major issue in our society and a significant cost to our health system. I congratulate the Mental Health Coordinating Council and all the agencies, organisations and individuals involved in the development of the Working Safe Toolkit, which is designed to reduce risk in the workplace. I will be there on Friday for the toolkit's official launch. On behalf of the community I also thank mental health workers for their commitment and dedication to their profession and the many people who depend on them.

AFRICAN COMMUNITIES LEGAL EDUCATION

Mr NICK LALICH (Cabramatta) [11.34 p.m.]: I speak about an initiative aimed towards the growing African community in my electorate of Cabramatta. The African Legal Education DVD titled *Under the Law* is an introduction to the legal rights and responsibilities of Australian residents. The DVD runs for 28 minutes and uses storytelling as a way to engage and educate communities about the rights and responsibilities of Australian residents, particularly newly arrived people from African communities. The DVD is available in four languages—English, Arabic, Dinka and Swahili—and has been made possible through the efforts of various partners in the community, including the police and local agencies.

My electorate is one of the most culturally diverse communities in Australia, with many residents having migrated from other countries. Nearly half of the people living in my electorate of Cabramatta come from non-English speaking backgrounds. The African legal education DVD *Under the Law* is particularly special, as certain community groups can view it in their own language. The project began when the Community Safety and Crime Prevention Program identified the need for a resource for emerging communities in the Cabramatta area.

Some of the issues explored on the DVD include traffic offences, domestic violence, crime reporting, and youth and the law. Moving to a new country and trying to learn what might be an entirely different way of living can be a difficult and at times confusing experience. I know that as a fact, as I too have been through this process when migrating with my family to Australia. This DVD is a great initiative and I, for one, reflect back and wish it was around when my family migrated to this great land. The DVD supports new migrants and educates them about their rights and responsibilities as an Australian resident.

I wish to place on record my sincere thanks to all the community organisations involved in producing this DVD, including Fairfield City Council, the Information and Cultural Exchange, the NSW Police Force, Legal Aid NSW, the Liverpool-Fairfield Women's Domestic Violence Court Advocacy Service, the Auburn Community Development Network, the Department of Justice and Attorney General, as well as the Sudanese Settlement Service. I also thank the Law and Justice Foundation of New South Wales for providing the funds that made this project possible, and the Fairfield and Cabramatta Local Area Commands, which provided their

expertise to develop the script and film the DVD. I also thank our local community members who contributed their own experiences and knowledge as well as acted in the DVD. This is another example of the diverse and multicultural community that exists within my electorate of Cabramatta.

I am so proud to be the local member of a place that is made up of so many different backgrounds, cultures and religions, yet they co-exist and work together to support each other and protect the positive reputation that the community has formed within the wider part of the State, this country and internationally. The program I have spoken about today is another example of what makes me so proud of my community.

MARSDEN PARK BUILDING RESTRICTIONS

Mr RAY WILLIAMS (Hawkesbury) [11.38 p.m.]: I speak about a very important issue and about a great injustice that I believe has been committed against a family in my area of Hawkesbury. I speak about the family. The Prasad family purchased a block of land in the Marsden Park area, in the Riverstone electorate. The particular area is known as "the scheduled lands". The area known as "the scheduled lands" dates back over a century, when very small blocks of land in this area were broken up and gifted to returned veterans from World War I. However, the restrictions that applied to the building of a home on that land are virtually still in place to this day. In 2008 the area was incorporated within the growth centres boundaries, and it looked like there was some hope for people to finally be able to build on their blocks of land and have some development potential.

The Prasad family purchased their land in 2006 for the sum of \$480,000. The land was covered by an environmental conservation zone, which had been imposed by the previous Minister for Planning, Mr Frank Sartor. Land assumed in that environmental conservation zone was permitted to be compulsorily acquired by the Department of Planning or entered into a land-swap deal. The Prasad family was first given the opportunity to enter into a land-swap, but the Department of Planning changed its mind and said the land would be compulsorily acquired by it. When the Prasad's learnt that they would be getting only \$480,000, the same amount they had purchased the land for some years earlier, in full knowledge that their neighbouring properties had been compulsorily acquired for much more—one adjoining property was acquired for \$1.3 million—they raised concern with the department and asked whether they could get a private valuation to prove that the property was worth more.

The Department of Planning agreed to the Prasad's request for an independent evaluation and undertook to get one also. The two bodies then met in mediation and came up with the sum of \$800,000 for the Prasad property. Both valuers and the Prasad's were in agreement on that figure. But following that agreement the Department of Planning refused to purchase the property under the Land Acquisition (Just Terms Compensation) Act for the sum of \$800,000 and reverted back to offering the sum of \$480,000. The Prasad's had a mortgage on this property with the Commonwealth Bank of Australia, they had paid stamp duty, et cetera, and that meant they would be significantly out of pocket. They then decided to take the matter to the Land and Environment Court, where the judge awarded them just over \$500,000. They had also incurred approximately \$40,000 or \$50,000 in legal expenses, so this saw them severely out of pocket.

The Prasad family asked the Commonwealth Bank of Australia to allow them to use \$50,000 to fight the court case. However, once the property was sold the bank requested the Department of Planning to forward all moneys to it. That meant an early payout of the loan and an early exit fee. The Commonwealth Bank of Australia—the lovely people that they are—imposed an \$8,000 early exit fee on them. These people have been the subject of one of the greatest injustices imaginable. They have been to see me because they are now questioning whether they should appeal that decision. If they do appeal they could incur much heavier legal expenses than they already have. They have lost a significant amount of money on their property. Some of their neighbouring properties are much smaller but the property owner next door to them achieved a much higher amount from the Department of Planning.

The Department of Planning has acted very poorly. It has acted in breach of the Land Acquisition (Just Terms Compensation) Act as to the fair and equitable amount of money people should expect to get under a compulsory acquisition of property. The Prasad family is now facing severe financial hardship. I will continue to pursue this case on their behalf. They deserve justice, which they are not getting at the moment. I repeat: The Department of Planning has acted extremely poorly. The bureaucrats from that department need to be asked whether they have acted in good faith. In my opinion, they certainly have not!

WARILLA NORTH PUBLIC SCHOOL

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [11.43 p.m.]: I congratulate the parents of Warilla North Public School on their successful community campaign to keep their school open

following the discovery of asbestos at the school. This successful grassroots campaign has resulted in the \$4.5 million rebuilding of the school. On 16 August I met with the initial group of parents who drove the community campaign: Lisa Doel, Lynda Colquhoun, Maria Rogerio, Shane Wooldridge, Broadie McGugan, Penny McGugan, Glenn McCaughey, Kirsty McCaughey, Richard Seris, Angela Seris, Annette Usher, Kylie Mostyn, Kathy Fisher, Jody Bums, Lee-Ann McGowan, Linda Napier, Tammy O'Neill, Paul Stevenson, Melissa Stevenson, Raymond Burke, Tracey Trembling and Shannette Trembling. Those parents were concerned that their school, in a needy and socially disadvantaged community, would be closed.

Warilla North Public School has served the local community for almost 50 years. The general consensus among parents and friends of the school community is that it must remain open. At its peak, Warilla North Public School educated 1,200 students per year. This school services a needy community, with a high density of social housing clients and Commonwealth health card holders. The school provides an important hub for the delivery of essential services and support programs for the wider community. Remediation of the school was viewed as an essential investment in the school, the children and the wider community. Keeping the school open was also met with strong support within the broader community. In the first seven days of the initial school closure two Facebook sites were established, both of which attracted a large following, and a local petition was circulated, attracting more than 800 signatures. The issue also attracted significant local coverage.

I was pleased to work with this local community to achieve a positive result. The Department of Education and Training had put forward a briefing outlining a number of options as to the future of the school. One option was to close the school, and another was to remediate the affected area. The group made it very clear to the Minister that the school should be remediated and reopened on the same site. Following those representations the Minister, Verity Firth, announced that Warilla North Public School would remain open and would receive a \$4.5 million upgrade, including new classrooms for students with additional needs.

The rebuilding will involve a complete refurbishment of all school buildings so the entire site is fully utilised, resulting in the reconditioning of 14 permanent teaching spaces. Students and staff will soon be able to enjoy these new facilities of which they can be very proud. This decision gives certainty to the local community and will allow for the establishment of a much-needed special education unit in the area. This is a big win for our local community. I thank the students, staff and the community for their patience whilst options for the school were considered.

I also thank the principals of the two schools that are currently hosting the students, as well as the principal of Warilla North Public School: Mr Robert Cusack, Barrack Heights Public School; Ms Sue Lazenby, Mount Warrigal Public School; and Mr Peter O'Brien and Ms Vickey McGee, Warilla North Public School. I also thank their staff. They have displayed the highest standards of leadership and cooperation to ensure that any impact to learning, playground space and canteen access was minimal. As the member for Shellharbour, I am exceptionally proud of the hard work and unwavering support invested by the local community to ensure that this school did not close. I thank and congratulate everyone who supported this action; everyone was incredibly instrumental during this process.

FRESHWATER DEVELOPMENT PROPOSAL

Mr MIKE BAIRD (Manly) [11.48 p.m.]: It is with anger and disappointment that I speak tonight about a development in the village of Freshwater that appears to be on the cusp of approval. Indeed, it is progressing rapidly towards approval despite immense community angst, hesitation and disdain for the proposals that have been put forward. The *Manly Daily*, which I have seen online tonight and which will be distributed in hardcopy tomorrow morning, describes it well when it says:

FRESHWATER locals say they feel "betrayed" after it was revealed Warringah Council would support the approval of the controversial village development.

I share the word "betrayed" with them. As I mix with members of the Freshwater community—and I was talking to people there last Saturday at a street stall—there is a strong sense that sensible development is okay but it needs to be done in consultation with the community. But what is disingenuous about this entire process is that the developer has raced against the clock. It well knows that a master plan is being prepared by Warringah Council. It well knows that that master plan will have input from the community and will oversee the whole of the Freshwater precinct and its impacts. The developer does not want to comply with that plan. It wants to push through a development in essence without engaging with the community.

With that type of approach, it is no wonder the community is in uproar and, as the *Manly Daily* has reported today, feels very much betrayed. This Saturday a rally will be held. Hundreds of people will gather in

the centre of Freshwater, and I intend to join them. There have been many such events in recent months and I expect that many more will be held. I believe the Mayor of Warringah, Michael Regan, will also be in attendance. At a meeting last night the councillors unanimously opposed the proposed development. I congratulate the mayor on taking a strong stance at the meeting and generally on this issue. The community is united in its belief that this development should not proceed in its current form.

Almost 2,000 written objections have been received. It is not a case of one of two dissidents or form letters. These are individual written objections. The development remains non-compliant as to height and traffic issues. Tonight, with some urgency, I alert the Minister for Planning and the Keneally Government to the deep dissatisfaction in communities about the perceived double standards that apply to developers and residents. The chair of the Friends of Freshwater Village, Peter Harley, said that the community is frustrated that rules do not appear consistent. Residents seem to have no flexibility in relation to development applications, yet developers seem to have ultimate flexibility.

The developer has relodged its development application. The last development application was thrown out. Although changes have been made, it seems that the relodged development application is non-compliant in relation to height and bulk. Traffic concerns remain, as well as the ongoing bugbear in Freshwater of parking. A master plan is being prepared, yet the developer persists in pushing ahead with this development. The developer has disingenuously attempted to circumvent community consultation, rather than ensure that the proposed development does not destroy the fabric of one of the most incredible places on the New South Wales coastline. I would be remiss not to place on record my anger about the approach taken by the developer. It is not hard to understand why communities across the State are deeply cynical about development.

I am not against development. I am totally in favour of development and of sensible development in this location. However, I demand on behalf of my community that the Minister for Planning does everything in his power to suspend development approval of the Freshwater village development application until the master plan or the Freshwater village development control plan have been completed and put in place. I call on the developer to listen to the community and to comply with the master plan. Then we will have a win-win situation. If not, the developer will have to deal with a deeply disenfranchised and angry community.

NURSE-TO-PATIENT RATIOS

Ms SONIA HORNER (Wallsend) [11.53 p.m.]: In an article about nursing in today's Newcastle *Herald* Brett Holmes, New South Wales Nurses Association general secretary, said:

You are in hospital because you need nursing care. If you didn't need nursing care you could see a doctor or physiotherapist in their rooms.

We all respect and love the care we receive from nurses in our local hospitals. I could talk for hours about the fantastic job our nurses do, but tonight I have to limit my acknowledgement to less than five minutes. The result of surveys of patients conducted in the two major public hospitals in my electorate of Wallsend, the John Hunter and the Calvary Mater, demonstrates how much we respect our nurses. The local surveys show that the satisfaction rating of nurses is well over 90 per cent in both institutions. Members do not seem surprised. It is a satisfaction rating that every member of this House can only dream of. I could talk more about this aspect, but not tonight.

Tonight I want to talk about a campaign that nurses are running in my electorate of Wallsend and across the State. Over the past decade the medical fraternity has been researching the working conditions of nurses and staff in hospitals. In 2003 then Minister for Health, Morris Iemma, announced that the New South Wales Government would engage a research team from the University of Technology, Sydney, to undertake a \$1.2 million study into nursing workload and the responsibility of nurses. The research team was led by Professor Christine Duffield, Director of the Centre for Health Services Management, a joint centre for the faculties of nursing, midwifery and health and business.

The three-year study looked at how patient care is affected by nursing workload, the skill mix of nurses and models of nursing care. This groundbreaking research had never been undertaken before in Australia. As to the critical findings, the research identified a strong link between the number of skilled nurses and safe patient care. I considered this finding unremarkable. However, I was shocked by the finding that if a nurse is caring for eight patients rather than four, the patients' chance of dying increases by 30 per cent. Victoria introduced these

ratios in 2001. Not only did this measure substantially improve patient outcomes, but it brought much-needed nurses back to the profession. Improved working conditions, which allow nurses to do their job better, have seen almost 10,000 nurses return to the public hospital system in Victoria.

Currently, nurses are talking to the New South Wales Government about the need for improved staff-to-patient ratios. As New South Wales Nurses Association organiser Nola Scilinato explained succinctly, "It is about patient care and working in a safe environment." I have the privilege of three nurses in my family. My niece Nichole is a midwife at Royal North Shore Hospital. Nic supports the industrial action because, she says, teamwork is essential in the smooth running of any hospital and its benefits extend to all wards. This can happen only when sufficient staff are available to care for every patient. Nic said:

When the delivery ward is very busy, and sometimes caring for women up to 12 hours after giving birth, and the postnatal ward is equally busy, and there's insufficient staff to care for the women, where do you place the women in labour? It's a daily juggle.

No member of the community in the Hunter disputes the fact that more skilled and experienced nurses are needed in the public health system. I am hopeful that this Government, a Labor Government, will listen to our workers. The Government will realise that the nurses' stand on this issue is not about personal gain but about betterment for others. It is about better healthcare for the people of New South Wales. We must care for our nurses with the same compassion and diligence as our nurses care for their patients.

ADELONG ALIVE MUSEUM

Mr DARYL MAGUIRE (Wagga Wagga) [11.58 p.m.]: On 28 November 1994 a meeting was held in the Adelong Country Women's Association [CWA] rooms, attended by Adelong branch members Mrs Muriel Commens; Mrs Audrey McKenzie; Gail E. Commens, president of the Home Group; Jerry Proft, Tumut shire Deputy Mayor; Paul Mullins, Tumut council officer; and Peter Smith and Tom Wiles of the Adelong Progress Association. The Adelong CWA numbers, sadly, had depleted. They had been considering disbanding for some time but did not want the building to be sold by head office and lost to the Adelong community. Although the building was in a very bad state, the CWA members were not prepared to spend money on it. At the meeting the building was offered to the Adelong Progress Association to be used as a museum at a peppercorn rent, provided the progress association paid for all repairs and the continued maintenance of the building. The offer was accepted by the Adelong Progress Association and a museum subcommittee was formed. Negotiations continued with the CWA headquarters and finally an agreement was reached.

On Saturday afternoon 5 April 1997 a few people gathered in Apex Park for a sausage sizzle to celebrate the handing over of the CWA building to the museum committee. John Annetts and David Boston made speeches and Ila Beattie said a few words, to which Audrey McKenzie responded. The building was then inspected. All they had to do was fix up the building and gather stuff to put in it. However, it was several weeks before they received official notification that the building was theirs. Funding was obtained from several sources, including private and corporate donations, which enabled them to call tenders to underpin the building, repair the brickwork on its north-west corner and lay rainwater pipes to the creek. On 15 October 1997 Fred Ries's tender was accepted. Council finally accepted the plan and specifications for underpinning—it wanted larger and deeper piers under the corners—and on 19 June 1998 work began.

Fred Ries also volunteered his labour to repair the brickwork in the back room. Attempts were made to repair the plaster ceilings in the main room without success, so it was decided to replace the plaster ceilings with gyprock. Work began on 24 January 1999 with the ceiling being ripped out. That done, the ceiling joists were prepared and strengthened, the battens secured with screws and the new ceiling installed. Meanwhile, the building was completely rewired. Luckily they were able to save and repair the centre decoration. The ceiling was finally completed on 8 January 2000. The ceilings in the other room were repaired and the whole building was painted inside. All that work was done with volunteer labour and many days were spent shipping, scraping and filling before painting began.

Zane Sparavich was engaged to make the safety grilles for the front windows and workshops were held, which involved schoolchildren, to provide Zane with ideas. The safety grilles were completed and installed on 14 October, the day of the opening of the Adelong Alive Museum. Since then the store shed has been built, the back room—the Social Gallery—has been completed, the back entrance has been remodelled with extra storage space, ceiling insulation has been installed, and two more window grilles and screen doors have been added.

The exhibition opened on 14 October 2000 and since then several exhibitions have been held, including Births of a Nation, on 8 September 2001; Two men—two wars—General Sir John Monash and General (later

Field Marshal) Sir Thomas Blamey, on 9 October 2002; Café Culture, 2003; Volunteer photographs—Year of the Volunteer; the opening of the Social and Cultural Gallery, 2004; Astronomy with Flare, 2005; CWA Gallery opening, 2005; Children's photographs—My Town, 2006; Adelong in 1860—our earliest exposure, 2006; the launch of a DVD—*Adelong Gold & Adelong Story*, 2007; Astronomy Night; Pubs of the Past; Thirteen Faces of Edel Quinn, 2009; Winning Sky photos: the David Malin Awards, 2010; and this year the Adelong Public School—150 years.

This has been a marvellous achievement by the community of Adelong. On Friday night there will be a celebration to mark 10 wonderful years of this museum. I pass on my congratulations and thanks to all the people who initiated this project and who have contributed to it in the past decade to preserve the vital history of Adelong. Adelong is a wonderful community that has a very strong history in the goldmining sector, which this town works very hard to preserve and promote, and the museum does that. The Governor, Marie Bashir, paid a visit to the museum last year. It is through the wonderful volunteer work of committee members, past and present, that all this has been achieved.

SUTHERLAND SHIRE ANNUAL AWARDS

Mr PAUL McLEAY (Heathcote) [12.03 a.m.]: Tonight I inform the House of the 2011 Sutherland Shire awards.

Mr Peter Draper: We've been waiting for this.

Mr PAUL McLEAY: We've been waiting all night. Last week Mayor Phil Blight, the hardworking Labor mayor of Sutherland shire, announced the three categories of awards: Community Group of the Year, Young Citizen of the Year and Citizen of the Year. The nominees for the 2011 Sutherland Shire Community Group of the Year are the Steven Walter Foundation, which raises funds to benefit childhood cancer research in Australia; the Sutherland Business Education Network, which builds networks between employers, schools and young people to facilitate learning; the Sutherland Shire Bushcare Volunteers, numbering over 700, who contribute many thousands of hours to natural environment regeneration; the Miranda RSL Captain Cook Day Care Club, which provides social opportunities for older people, mostly still living at home.

Other nominees include the Sutherland Shire Area Tenant Council, a volunteer committee that supports, informs and advocates for people living within the social housing sector; the Shire Events Crew, a committee of shire residents aged 13 to 24 who jointly organise events and support local youth services; Sutherland Shire Relay for Life, which supports cancer awareness and research; Cronulla Lantern Club, a volunteer group of around 50 members who organise events and other fundraising activities for the Royal Institute of Deaf and Blind Children; and Sutherland Shire Chinese Language School, a non-profit organisation that teaches the Mandarin language and culture to students from Chinese and non-Chinese speaking backgrounds.

The winner of the 2011 Community Group of the Year award was the Cronulla Lantern Club. Unfortunately, Trish Woodford, the Lantern Club President, was unable to be at the awards that day and accepting the award on her behalf was Yvonne Gray, who, in her usual gracious and humble fashion, said it was all part her work and that they were still looking for members, as they had been doing the work there for 50 years. All in attendance congratulated Yvonne and the volunteers of the Lantern Club and the mayor presented them with a framed certificate, a book and a flag that was donated by the local Federal member.

The next presentation to be made was for the 2011 Sutherland Shire Young Citizen of the Year. The finalists for the award were Alex Vance, a 21-year-old university student who had volunteered for many local youth projects, including campaigning against violence and depression, whilst focusing on life coaching, mentoring and motivation of shire students; and Micaela Bassford, a 17-year-old student who has achieved many awards in leadership, public speaking and debating and who has also played active roles in fundraising for causes including Jeans for Genes as well as participating in youth council and youth parliament. The winner of the 2011 Young Citizen of the Year award was Alex Vance. Alex is a wonderful young woman who spoke to the group and humbly said that she was a volunteer because she wanted to make the world a better place and to help other young people.

The final presentation was the Sutherland Shire Citizen of the Year. The nominations were Sister Sarah Hanley, a dedicated member of St John Bosco School, which fosters a close and caring community; Bob Sharkey, chairman of the Community Development Support Expenditure Scheme, which ensures that registered

clubs take an active role in the community and support small organisations and groups in need; Dr Edmund D'Souza, a long-term resident, general practitioner and carer within the Sutherland shire, whose compassion and generous nature has helped many; Rod Coy, hands-on chairman of Sutherland Shire Relay for Life, who worked tirelessly to build the event into the largest in Australia, raising funds in excess of \$885,000 to date; Yvonne Gray, the founder of the Cronulla Lantern Club, who has spent her spare time doing charity work for more than 50 years in the Sutherland shire; and James Bruce, who has volunteered his services to the Cronulla Community Arts Amateur Theatre for almost 40 years, creating sets and providing lighting as the theatre's technical manager.

The winner of the 2011 Sutherland Shire Citizen of the Year award was Bob Sharkey. He was chosen because he is volunteer chairman for the Community Development Support Expenditure Scheme, which actively supports many marginalised groups in our community. This year 42 grants totalling more than \$256,942 were made to local community groups, including Camp Kookaburra, which hosts camps for kids caring for parents with mental illness; the women's refuge Amelie House; Sutherland Early Support Service, which cares for mothers struggling with the demands of a new baby; local surf life saving clubs; and the Baptist Community Service's Food 4 Life food project for the disadvantaged. Many of those programs would not exist without the assistance of the Community Development Support Expenditure Scheme. I congratulate Bob and his club, Sutherland Tradies, which is the shire's premier club and of which he is a proud director.

BARRABA WATER SUPPLY

Mr PETER DRAPER (Tamworth) [12.08 a.m.]: The 1,400 people living in and around Barraba have a strong belief in the potential of their community. Since 2007 I have been honoured to work alongside them, dealing with processes that are frustratingly slow in the battle to achieve their goals. Barraba Central School is a place where students develop the confidence and self-esteem that comes with success. The school's motto, "The only limitations you have are the ones you place on yourself", is particularly appropriate. It is ironic that the only limitations the Barraba community faces are the ones placed upon it by government. I have spoken often in this place about the lack of a secure, quality water supply in Barraba, and also about the environmental disaster on its doorstep, the Woodsreef Mine.

For many years the Barraba community has been trying to convince authorities that the only solution to its water supply is a pipeline from Split Rock Dam. When Barraba locals learnt that the Tamworth Regional Council had a report on its June 2008 agenda recommending it not proceed with the Split Rock Dam pipeline option because of the high capital cost they attended a meeting en masse and the council rejected that recommendation. Despite often feeling they are hitting their heads against brick walls, the Barraba community never gives up! Reports on the project have included the Barraba Water Supply Augmentation High Security Study 1994; the Augmentation of Barraba Town Water Supply Ring Tank Option 1997; the Detailed Assessment of Groundwater Prospects for Barraba Water Supply 2000; the Augmentation of the Barraba Town Water Supply Groundwater Resource Investigations 2002; the Split Rock Dam to Barraba Water Supply Pipeline Concept Report 2003; the Augmentation of the Barraba Town Water Supply Groundwater Investigation Stage 2, 2004; the Barraba Water Supply Options Development Report (Draft D) 2009; and the Barraba Water Supply Supplementary Investigation Report (Draft B) 2010. Many Barraba residents rightly feel they could have already built a pipeline given the money spent on reports.

Costs keep skyrocketing. In 1994 the Department of Public Works recommended the construction of a pipeline from Split Rock Dam costing \$3.36 million. In 2006, a State Government report gave a costing of \$6.6 million. A 2008 Tamworth council report estimated the cost would be \$15 million. After years of reports Barraba residents are eagerly awaiting the final consultants' report to Tamworth Regional Council due to be presented in December. Hopefully, that report will reveal what locals already know—that is, that a pipeline is the only effective solution to Barraba's water woes. They will then look to local, State and Federal authorities to fund the project.

Another report of great interest to Barraba residents is the Ombudsman's report entitled "Responding to the asbestos problem: The need for significant reform in NSW". This report is an indictment of the State's processes, duty of care and environmental credentials. The Ombudsman's report pinpoints and justifies concerns that have been raised over many years by the Barraba community. Barraba residents have every right to be angry that the Woodsreef mine is the only known asbestos mine site in New South Wales that has yet to be remediated. In a damning critique the Ombudsman states:

Friable chrysotile asbestos is scattered over vast areas of the 400-hectare site, untreated and with minimal security or protection in place. Despite a plethora of consultant's reports obtained by Government showing there is a danger to the health of people inhaling asbestos fibres, very little has been done by successive Governments and agencies to deal with this serious public health issue.

Barraba residents are rightly angry that a health report produced by Hunter New England Health on this issue is still not publicly available. I call on the Premier to act immediately on the Ombudsman's recommendation that \$5.5 million be allocated for the remediation project at Woodsreef because funding was unsuccessfully sought by the Department of Industry and Investment in 2009. The Ombudsman concluded his report by saying:

Given the seriousness of the issues raised in this report, I recommend that the Premier advise the New South Wales Parliament within six months of the date of this report of the actions taken or proposed by Government in responding to my recommendations.

Barraba residents expect no less, no matter who is Premier after March 2011. The Barraba community is very progressive and sought Community Building Partnership funding for projects to improve local amenity. As a result, \$10,000 provided air conditioning at the senior's centre, \$18,000 will enable Barraba rugby club to build a kiosk and storage facility, and \$15,000 has been allocated to the Barraba showground. Additionally, Barraba Central School achieved many significant improvements through judicious use of Building the Education Revolution funding. Barraba residents are sick and tired of reports that end up gathering dust. The Ombudsman has made his position on Woodsreef very plain—it is time to act now. If council's report next month says a pipeline is the only satisfactory method of delivering water to Barraba, we need to get on with it. The Barraba community has done the hard yards and it is time for those efforts to be rewarded.

REPLACEMENT OF POLICE ON SICK LEAVE

Mr RICHARD TORBAY (Northern Tablelands—Speaker) [12.13 a.m.]: Across this State our hardworking police officers and their local area commands are under stress. It is not the normal stress of the job; it is the hidden factor that they must work double or triple time to cover for many fellow officers on sick leave. In 2006-07, there were 2,800 reported workplace injuries resulting in time off in our 15,000-strong NSW Police Force and more than 63 days were lost per injured employee.

In the Police Force, unlike the health or education services, there is no policy to replace staff on sick leave and there is no pool of casual staff to draw on to meet shortfalls. Even though it could be operating under strength with a number of officers on sick report, a local area command is deemed to be at authorised strength. That is because the officers on leave on full pay are counted as still operational and on duty. Ironically, the stress created by the strain of so much extra work puts another tranche of employees into the stress zone and thus perpetuates the problem it is meant to be solving. The overtime wage bill is also accelerating at an unsustainable rate. Local area commanders' hands are tied. They are obliged to keep their communities safe and have no choice but to direct their officers to respond regardless of inadequate resources.

I encountered this recently at Community Safety Precinct Committee meetings in my electorate. In response to concerns expressed by community leaders about a recent spate of break and enters, it was reported that the New England Local Area Command is operating well under actual operational strength. Out of 144 officers, 26 are not available to perform full duties. They are either on sick report or on restricted duties and that impacts on local crime fighting. Three detectives are currently on long-term sick report and another is on short-term sick leave, Armidale police station has one sergeant and three detectives instead of five, Inverell police station has one sergeant and one detective instead of two and there is now no detective at the Glen Innes police station. In addition, two of Armidale's detective constables have been on sick report since October 2008 and one Inverell-based detective constable has been on long-term sick report since last year. These absences are affecting the commands' ability to respond to crime outbreaks and the officers attempting to manage the situation are overworked and frustrated at the department's failure to resolve this situation.

This month the *Tweed Daily News* reported that the Tweed-Byron Local Area Command has 20 officers on long-term sick leave, and seven of them are from the 17-strong highway patrol. In February the *Newcastle Herald* reported one in six front-line detectives is on long-term sick leave. In Newcastle the figure is 5 out of 30 detectives and central Hunter has lost 10 investigators to stress and illness in less than 3 years. Similar statistics apply across the State. This problem is endemic.

A thorough review is needed to speed up police stress and sick leave procedures, and to offer financial and other incentives to settle issues quickly and to cut red tape. A pool of relieving officers should be established, as occurs in other areas of the public service. Officers unlikely to return to active duty should be identified early and given incentives to leave. At present they cannot be replaced until they are formally discharged through a lengthy and over-bureaucratic process. An anomaly with the pensions and superannuation benefits scheme is that it does not encourage police to resolve discharge matters speedily and efficiently.

Police are initially assessed by general practitioners and referred to specialists for medical and psychological treatment. Treatment can continue for years rather than months before the officers concerned decide to proceed to discharge. The issue is then referred through different agencies to the Medical Discharge Unit and finally to the Police Superannuation Advisory Committee. I am told that 90 per cent of these claims are successful and there is simply no need for the process to take so long except for the financial benefits that are offered. The system must be changed and incentives should be offered to speed up the process, not to slow it down.

Complicating the matter even further, I am advised that considerable delays are experienced in the recruitment procedures to fill ordinary vacancies, which adds even more stress to our front-line police. The challenge is to undertake a comprehensive review and to reform the system to support our front-line police officers. Those unoccupied positions should be filled as soon as possible.

Private members' statements concluded.

The House adjourned, pursuant to resolution, at 12.18 a.m. on Thursday 25 November 2010 until 10.00 a.m. on the same day.
