LEGISLATIVE ASSEMBLY

Wednesday 30 October 2013

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The Speaker (The Hon. Shelley Elizabeth Hancock) took the chair at 10.00 a.m.

The Speaker read the Prayer and acknowledgement of country.

NATIONAL DISABILITY INSURANCE SCHEME (NSW ENABLING) BILL 2013

Bill received from the Legislative Council, introduced and read a first time.

Second reading set down as an order of the day for a later hour.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

COMPANION ANIMALS AMENDMENT BILL 2013

Second Reading

Debate resumed from 16 October 2013.

Mrs BARBARA PERRY (Auburn) [10.09 a.m.]: I lead for the Opposition in relation to the Companion Animals Amendment Bill 2013. The Opposition does not oppose this bill but may propose amendments in the other place. The shadow Minister and I were forwarded some minor technical amendments by the Minister's office and those matters are not opposed. I assume that the Minister will move those amendments today. This bill seeks to maintain the balance and intent of the Companion Animals Act 1998 and previous amendments made to the Act with the community's love of pets, particularly dogs. It seeks to promote the welfare of animals while recognising issues of safety for individuals and families. The constant theme of any government has been to deal with companion animals through prevention, education and supervision. The task force has looked at the competing interests in the community.

The objects of the bill describe its intent, and I will not repeat that information. For some time the Opposition, through the shadow Minister, has raised with the Minister the savage dog attacks that continue to occur in this State. The shadow Minister called upon the Government to conduct urgent investigations into the dangerous dog attacks. The shadow Minister, the Hon. Sophie Cotsis, wrote a letter to the Minister for Local Government indicating the importance of discovering the facts surrounding the incident involving Mr Nelson that occurred on 26 May 2013 and, in particular, how three dangerous dogs were able to escape and roam the streets unleashed. The Opposition sought information as to whether the dogs' owner had previously been known to the council. The Minister's response was fair and even-handed. In his response the Minister acknowledged that councils have strong powers under the Act to respond to dog attack incidents. I am unclear of the date of the Minister's reply, which stated:

> Councils currently have strong powers under the Act to respond to dog attack incidents where the behaviour of dogs causes public concern. However, as you are aware, earlier this year the Government released for public comment the Companion Animals Taskforce report on dangerous dogs. The report recommendations include strategies to identify and deal with potentially dangerous dogs before they attack, as well as strategies to assist the police and councils to work better together to manage stray dogs attacking people in public places.

The incredibly good work the task force has done builds upon existing policy and legislation in this State. The bill will introduce another category of potentially dangerous dogs, which is "menacing" dogs. In the Minister's second reading speech he stated that the introduction of the category of "menacing" dog seeks to prevent further attacks. That is true. It is of concern that the public is not aware of the current dangerous dog provisions that

allow people to report bad behaviour. It is clear under section 33 of the current Act that a dog can be declared dangerous if a council has evidence that it has displayed unreasonable aggression towards a person or animal, attacked without provocation, or is kept or used for the purpose of hunting.

Implicit in section 33, and contrary to what the Minister implied, a dangerous dog does not need to attack to be declared dangerous. It does not have to attack—unreasonable aggression or behaviour can be reported. It is not clear in the bill what in practice constitutes a menacing dog. There is an attempt to define that but it will be problematic to define the line between "menacing" and "dangerous". I pose the question: Is there any such fine line? That is not a criticism; it is a reflection upon whether there is such a line and, if there is, how that line will be drawn. That is my first point.

My second point is that the importance of reporting dog attacks cannot be understated. The importance of the Government and the department collecting that data cannot be understated. I understand the Minister will say that the information is reported elsewhere. However, in this year's budget papers there was no reference to dog attack reports, as there had been in previous years. It may be that it is reported elsewhere and it comes out quarterly, but the State's budget papers should contain that key performance indicator. It is important for the Government to continue to improve the register because it is only through data collection about community hot points and difficulties that good policy can emerge. It is important that that be acknowledged. The Minister states in his second reading speech that the bill will, if necessary, enable breeds to be declared menacing in the future. I accept that is the Minister's view. Many members, including the member for Charlestown, who is a vet—

Mr Chris Patterson: Bondi.

Mrs BARBARA PERRY: I almost said that. The member for Charlestown may have views on that subject. During my time as Minister for Local Government I spoke to many people about this issue and I was convinced that we should not be talking about breeds; we should be talking about deeds. It is hard to say whether one breed is more dangerous than another. Although there may be qualitative statistics about dog attacks it will not necessarily come down to the breed. I ask the Minister to clarify the meaning of that statement. The test should not be whether a breed has a certain disposition. The bill must focus on how to prevent dog attacks and further educate communities and young people while promoting the welfare of their animals. We should always remember that supervision is essential. The United Services Union has raised some issues, which I know the shadow Minister in the other place will talk about, but I wish to raise them for the Minister in this place. In a letter to the shadow Minister, the United Services Union stated:

> Whilst the Union does not object to the aim of this bill, the Union is concerned that little thought has been given to how enforcement of this bill will take place, and what it means for the safety of council officers. The increased penalties and imprisonment time under the bill also places council officers in further dangerous and precarious situations as there is more to lose for alleged offenders, and it is likely that this will increase the risk of violence against council officers.

Mr Kelly, the General Secretary, further stated:

> This bill seems to recognise that the current risk for the public from menacing and dangerous dogs is unacceptable. However, it appears that little consideration has been given to the risk faced by council officers when trying to keep the public safe from menacing and dangerous dogs.

Further work is happening as to how agencies might interact. Nevertheless, the burden will fall on council enforcement officers to continue doing their work. I congratulate the Minister on trying to strike a balance, albeit introducing a new category. It may have some implementation issues, which needs to be backed up by resources. I look forward to the second tranche of the report by the task force. Dog attacks can be prevented. They will never be eliminated but the risks need to be minimised. Education is one component that is supported, but councils need essential resources, particularly to train their staff. I note the increase in fees, some of which will go to providing those resources. I thank the department and the task force for their efforts to protect members of our community whilst also recognising that companion animals have a role to play in our community.

Mr DARYL MAGUIRE (Wagga Wagga) [10.23 a.m.]: The Companion Animals Amendment Bill 2013 is welcomed. The bill has been brought to the House because of the community's concern about the ownership of companion animals, particularly dangerous ones, which have resulted in attacks on individuals throughout New South Wales. I congratulate the Minister for Local Government on his prompt action, the chair of the task force, the member for Charlestown, and the committee that worked to bring the first tranche of

legislation to this place. The bill amends the Companion Animals Act 1998 to enable certain dogs to be declared by the Local Court or council officers to be menacing dogs and to provide for special controls and higher offence penalties to apply in relation to those dogs; increases penalties for certain offences relating to the failure to register a companion animal and the control of dogs; and shortens the period within which an owner of an unregistered companion animal who is given a notice by a council officer must register the animal and allow subsequent registration notices to be given more frequently.

The bill also extends the period within which proceedings for certain offences relating to dog attacks may be brought within the period of 12 months after the date on which the offence is alleged to have been committed; clarifies the circumstances in which a council officer may seize a dog that is the subject of a proposed dangerous and menacing dog declaration; enables the Local Court to order that the owner of the dog undertake responsible ownership pet training in specified circumstances; and provides that the Local Court must, except in exceptional circumstances, make a destruction order in relation to a dog on conviction of the owner of the dog of an offence involving the serious injury or death of a person caused by the dog. The bill makes a number of miscellaneous savings and transitional amendments. The bill also makes a number of amendments to the Companion Animals Regulation 2008 and a consequential amendment to the Criminal Procedure Act 1986.

This proposed legislation will enable an authorised council officer to declare a dog to be menacing if the authorised officer is satisfied that the dog is menacing or the dog is of a menacing breed or kind of dog—or a crossbreed of a menacing breed or kind of dog—or the dog has been declared a menacing dog under a law of another State or Territory that corresponds with the principal Act. A dog is declared to be menacing if it has displayed unreasonable aggression towards a person or animal, other than vermin, or has, without provocation, attacked a person or animal, other than vermin, but without causing serious injury or death. The penalties have been increased dramatically and they will be welcomed. I relate an attack that occurred in Wagga Wagga that involved four residents and put on the record the havoc that is caused when menacing dogs are unrestrained. *The Daily Advertiser* printed this article:

> Sunday, December 25, 2011 - Four Wagga residents have spent their Christmas weekend in hospital after being attacked by two long-haired staghounds in Docker Street on Saturday morning. The two dogs wreaked havoc along Docker Street for more than 15 minutes before police arrived at the scene where one dog was destroyed and the other taken away by council rangers.
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> A 37-year-old man was reportedly walking his small Staffordshire Bull Terrier (staffie) near Wagga Base Hospital at 6.45am when the two dogs first approached.
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> The staghounds are believed to have launched themselves at the man and his dog, brutally injuring him before a 28-year-old motorist noticed his struggle and stopped to help.
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> However, as she tried to calm the attack, which had left the man with cuts to his left eye, forearms and hands, as well as a deep puncture to his right hand, the dogs are believed to have turned on her and inflicted significant lacerations to both her arms.
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> Grabbing the staffie, which had also been badly beaten up in the attack, the pair sought refuge in the woman's car and called the police.
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> While police were making their way to the scene, a 59-year-old woman at the other end of Docker Street was attacked by the same dogs just before 7am.
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> As the dogs mauled the woman, inflicting deep lacerations to her elbows, left wrist and right thigh, her 37-year-old son is believed to have come to her rescue.
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> But once again, as he attempted to end the attack, the dogs turned on him, leaving him with puncture wounds to his forearms.
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> Police destroyed one dog at the scene, while the other was taken away by a Wagga City Council ranger.
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> All four victims were taken to hospital by ambulance and treated for severe lacerations.
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> The 59-year-old woman, who received the most serious injuries to her arms, was preparing to be transferred from Wagga Base Hospital to Canberra for specialist treatment.

That was a brutal attack, which is just one example of many that have occurred in recent times. The owner went to court and was fined $4,000—four fines at $800 and two fines at $330. The owner was also ordered to pay the court costs. Those penalties will increase dramatically under this bill, which will be welcomed by the community. Dog owners have a responsibility to care for their animals and are being warned to restrain them. Dangerous and menacing dogs will not be tolerated. There are broader issues that the task force should take on board when considering the responsibility of care for animals. I encourage the Minister to communicate with councils that they too have a responsibility.

Across New South Wales some people, whether living in the suburbs of Sydney or in small towns and hamlets where a normal residential block may be a quarter of an acre, have not one dog but 10 or 15 dogs. Quite often those dogs are unrestrained. Where they are restrained in cages, conditions in those cages are all too often absolutely appalling; the dirt floors are not kept clean, leading to odours from dog faeces and other pollutants that are not dealt with. Even if a cage is cleaned out, you have to wonder how the owners are disposing of dog faeces and other polluting matter. Is it being placed in the sewerage system, dumped on Crown lands or buried? Who knows? Our sewerage systems are subject to strict restrictions, so we should be ensuring that the owners of these properties comply with such restrictions and dispose of dog faeces and other rubbish properly. As far as I know, there are no such controls.

Quite often dog cages have deep holes dug in them in which dogs seek refuge from the sun and heat. These cages attract flies and all sorts of vermin one can imagine, such as rats and mice. In country areas particularly these rodents attract snakes that hunt for rats and mice. Then there is the issue of the noise created by a number of dogs driving communities insane. Dogs can be a nuisance whether they number one, five or 50. The problem is that this noise is being allowed to continue, and in fact increase. In towns and villages individuals—whether greyhound trainers, or those who hunt professionally or for sport—are being allowed to house numbers of dogs in whatever manner they like. I am not aware of any controls being imposed on those owners. I think councils would welcome more powers to deal with these issues because they are receiving an enormous number of complaints, and rightly so. Residents who have lived peacefully in a street for a number of years would be seriously aggrieved when a person who moves into a neighbouring property has a number of dogs. These residents have very little power to take action.

By comparison, if I wanted to start a dog pound, I would have to comply with the laws; I would need to put in a development application and comply with certain restrictions imposed on me such as building soundproof cages, as well as provisions for the management of the dogs. Surely I would be required to house those dogs a certain distance from the nearest resident or neighbour. But there are no such restrictions regarding residential blocks of not just a quarter acre but even half an acre or an acre. Members can imagine the stench and dust that is created by the mismanagement of these animals for those people unfortunate enough to live on the eastern side of a property when the prevailing winds are from the west.

I know that time for debate on this bill is limited, but I urge the Minister to bite the bullet and ensure that councils have adequate powers to deal with these problems, which continue to be the cause of complaints coming across my desk from affected individuals, council officers and rangers who feel they are absolutely powerless to do something about these problems. The dog owners need to get their act together. If people have dogs, they have a responsibility to look after and manage them. Councils should be given powers to ensure that individuals live up to their responsibilities.

Mr GUY ZANGARI (Fairfield) [10.33 a.m.]: I note the main purpose of the Companion Animals Amendment Bill 2013 is to make a series of amendments to the Companion Animals Act 1998 to provide for the management of dangerous dogs in New South Wales. The explanatory notes to the bill state that the primary object of the bill is to implement changes to the 1998 law. This includes inserting provisions that will allow local courts or council officers to have certain dogs declared to be "menacing dogs" and to provide for special controls and higher offence penalties to apply in relation to breaches of the provisions of the Companion Animals Act 1998 that apply to such dogs. The bill also seeks to shorten the period within which an owner of an unregistered companion animal that is given a notice by a council officer has to comply with such an order and register the animal. Such amendments will also allow subsequent registration notices to be given more frequently. This will help ensure that the owners of companion animals have every opportunity to abide by their responsibilities as stipulated by the Companion Animals Act 1998.

The bill will expand the period within which proceedings for certain offences relating to dog attacks may be brought to within 12 months after the date on which the offence is alleged to have been committed. The bill will also provide clarification as to the circumstances in which a council officer may seize a dog that is the subject of a proposed dangerous or menacing dog declaration. The bill will also enable certain penalties to be imposed for a breach of the principal Act by an owner of a companion animal. This includes an order that will require the owner of a dog to undertake responsible pet ownership training in specified circumstances. Also it will make it a requirement for local courts, upon the conviction of the owner of a dog that has caused serious injury or death, to issue a destruction order in relation to the dog unless there are exceptional circumstances that the court can take into account.

As the list of objectives underlying this bill shows, this instrument attempts to bring the 1998 principal Act in line with the community's expectations of the Government and the owners of companion animals. The

principal Act, the Companion Animals Act, was first introduced by the former Carr Government. It has been amended twice: first in 2005-06, when it was strengthened to include the creation of a "dangerous dog" classification; and in 2008-09 with the establishment of the dangerous dog database. The Companion Animals Act represents some of the toughest laws for dangerous dogs in Australia; however, like all instruments, it must constantly be monitored and amended to reflect the expectations of the community, especially when it comes to the safety and wellbeing of residents.

After coming to office in 2011 the O'Farrell Government, in September 2011, established the Companion Animals Taskforce under the helm of the Minister for Local Government and the Minister for Primary Industries. The task force, chaired by the member for Charlestown, tendered to the Government two reports containing 38 recommendations. Following public consultation after the release of the reports, more than 5,300 submissions were received by the task force. The task force concluded that there was a need for ongoing monitoring. It found that less than 60 per cent of domestic animals are registered once they have been microchipped, and also that the incidence of dog attacks had been, until recently, on the increase. Such a trend has eventuated despite restrictions placed on certain breeds of dogs, in particular pit bulls, and the ability of councils to place controls on "dangerous dogs" such as muzzling. Finally, it found a need to increase the fees and penalties to bring New South Wales into line with other jurisdictions. The Act reflects the strong community concerns on the issue. Indeed, given the dangers to the community posed by antisocial and dangerous dogs, the amendments in this bill are a matter of urgency.

The report commissioned by the O'Farrell Government was released in February this year, but the Government decided to turn a blind eye to the repeated calls by the Labor Opposition to act on the findings of the task force inquiries and implement its recommendations. Eight months is a long time to wait given the need to ensure the safety of New South Wales residents. In the past eight months there have been a number of vicious dog attacks that could have been prevented. In May this year an Ashcroft man was savagely mauled by three pit bull terriers as he was going for an afternoon jog in Ashcroft. Tragically, in August, a two-year-old Deniliquin boy died after being attacked by the family dog. Given the onset of summer, this bill cannot come soon enough as, with kids about to go on school holidays, the chances of another attack will increase, unless this Government takes proactive steps to prioritise the implementation of these provisions.

This bill seeks to address the issues outlined to provide better protection for the community. It introduces a new classified dog category of menacing dogs which will allow councils to place controls on dogs that have exhibited behaviour or have attacked a human being without causing serious injury. This will complement the current enclosure and muzzling controls that are available to councils once a dog has been classified as dangerous. The bill will also increase penalty notice amounts and court penalties to ensure dog owners comply with registration requirements and that financial penalties for owners whose animals have been involved in a dog attack reflect the concern of the community. Finally, to help fund prevention initiatives the cost of registration will be increased in line with the consumer price index. For instance, the cost of registering a desexed animal will rise to $49. This will help to fund two new programs, including the expansion of an educational program, which will be targeted at preschool children and families expecting a child, to raise awareness on how to act safely around dogs. I do not oppose the bill.

[*Business interrupted.*]

DISTINGUISHED VISITORS

ACTING-SPEAKER (Ms Sonia Hornery): I draw the attention of members to the presence in the Speaker's gallery of His Excellency Mr Yousef Ali Al-Khater, Ambassador of the State of Qatar. Welcome to the Parliament of New South Wales.

COMPANION ANIMALS AMENDMENT BILL 2013

Second Reading

[*Business resumed.*]

Ms KATRINA HODGKINSON (Burrinjuck—Minister for Primary Industries, and Minister for Small Business) [10.40 a.m.]: I make a brief contribution to the Companion Animals Amendment Bill 2013. I thank the Minister for Local Government for his excellent work in the preparation of this bill. I am the joint Minister in this area. The Minister for Local Government and I formed the Companion Animals Taskforce when we first

came to office. One of the reasons for its formation was to reduce the rate of companion animal euthanasia. Every year in New South Wales 50,000 cats and dogs are euthanased: 30,000 cats and 20,000 dogs. The task force was chaired by my colleague and very capable veterinarian the member for Charlestown, who has done a terrific job, and included a broad diversity of representatives from community groups and individuals—from those responsible for felines to the RSPCA and others.

The task force members were diverse but all worked really well together to make some very sensible recommendations. The Government will address many of those recommendations a little later, but in particular the bill relates to dangerous dog attacks. Put simply, in recent years there have been far too many dog attacks in New South Wales. Every time another tragic incident involving a dog attack occurs, the New South Wales community rightly looks to the Government for action. I congratulate the Minister for Local Government on his swift action in this regard. I am pleased that the Government has considered these issues, has listened to the community and the experts, and is taking much-needed action to try to reduce dog attacks and place more responsibility on the owners of these dangerous dogs.

Clearly there was a problem with the operation of the dangerous dog classification in this State. Councils have the power to classify a dog as dangerous and place controls on the owner, such as requiring the dog to be muzzled when in public and housed in strict enclosure requirements when at home, but they have also had difficulty placing dangerous dog controls on dogs that might be judged to be potentially dangerous. Currently a dog can only be classified as dangerous if it has been involved in a serious incident, often requiring it to have attacked or killed a person or another animal. Parents of small children were worried about dogs that might potentially be dangerous but had not as yet inflicted injury. What should be done in that situation? Clearly councils needed more power to place controls on dogs considered potentially dangerous—namely, those dogs at risk of attacking as demonstrated by their behaviour or temperament.

The Government has agreed with the task force recommendation on this issue. It is proposed to amend the Act to introduce a "menacing dog" category, which will allow councils to place controls on dogs judged as menacing where the dog has displayed aggressive behaviour or has been involved in a minor attack or incident. These controls are not as onerous as those relating to dangerous dogs. However, a menacing dog will still be required to be leashed and muzzled in public, under the effective control of an adult, and enclosed in the home to prevent a child from approaching it. This is a very sensible amendment to the Act. There are too many potentially dangerous dogs kept because owners see aggressiveness as a desirable trait—I fail to understand why.

Councils will now be able to target these dogs and ensure that the community can be protected from them. I am confident that the menacing dog category and the broader approach taken by the amendments in this bill will reduce the likelihood of dog attacks in our community. That can only be seen as a good thing. The Government is acting responsibly. We have listened to the experts and to the community. The amendments are sensible responses to the issues considered by the task force and they should be strongly supported. I commend the bill to the House.

Mr JOHN WILLIAMS (Murray-Darling) [10.45 a.m.]: It is with much pleasure that I support the Companion Animals Amendment Bill 2013. I congratulate the Minister for Local Government and the Companion Animals Taskforce on their hard work in formulating these new guidelines. I have seen two dog attacks in my electorate. One of them involved a four-year-old boy at Deniliquin. That young boy was attacked by his uncle's dog and, sadly, died from the injuries he sustained. That attack highlighted the aggressive nature of dangerous dogs in our community and what they are capable of doing, particularly to small children. For all intents and purposes up until the time of the attack the family pet had not displayed that sort of behaviour. Unfortunately, some of these breeds of dogs attack instinctively.

Last Saturday I attended the Silver City Cup where I met Leanne Shamrose—referred to as the Afghan princess because of her heritage. Leanne is a nurse and high-profile volunteer in the Broken Hill community. She is a bright and bubbly individual. She went to assist a person being attacked by two dogs. Even today the person she was attempting to rescue still suffers from major injuries sustained in the attack. It was the first time I had spoken to Leanne since the attack, and she showed me some of her scarring. Leanne is a diabetic. She was bitten more than 63 times and the serious injuries she sustained required 120 stitches. She was also given two units of blood. But Leanne has a strong state of mind and has recovered well. Fortunately, Leanne's husband was in the vicinity at the time and was able to get the dogs away from Leanne and the person she was attempting to rescue.

I do not think that the owners of these dangerous dogs really understand their responsibilities. We will now be able to identify these dogs and ensure that the community can be protected from them. This bill will give councils more power to place controls on potentially dangerous dogs. Owners will be fined heavily for allowing these dogs to be outside their properties, exposing the public to the chance of being attacked by them. I find it disappointing that those who want to take on these breeds of dog do not want to take on the responsibility of containing them appropriately. Dog attacks happen far too often and there are always excuses as to why they got out. It is not acceptable. The bill enables a line to be drawn so that action can now be taken against dog owners who do not act responsibly.

In my electorate of Murray-Darling—which has a variety of dogs with a variety of owners, and in a lot of cases the owners are probably worse than the dogs—I am continually confronted by private property owners who have suffered the misfortune of these breeds of dogs running onto their properties and creating havoc with their sheep. Great numbers of sheep have been thrill-killed by these dogs. This situation is unacceptable and it is time that the Government of New South Wales let people know that having these breeds involves accepting certain responsibilities. I commend the bill to the House.

Mr CHRIS PATTERSON (Camden) [10.50 a.m.]: I speak in support of the Companion Animals Amendment Bill 2013. This bill is a response to the recommendations of the Companion Animals Taskforce set up by the Minister for Local Government and the Minister for Primary Industries and chaired by the member for Charlestown—three outstanding members of this Government. Recommendations were made and a large number of submissions were received through public consultation. The task force found that when it comes to dog attacks in particular the system is not working and requires changes. The task force also found that animal registration fees and penalties in New South Wales are too low compared to those in other States. There has been a lot of public concern about recent dog attacks, to which this Government has already responded by aiming to increase deterrents and the level of responsibility for owners of dogs that have the ability to attack. Other issues raised by the task force and requiring a longer-term approach to reform will be addressed in the future.

The bill introduces the new classified category of "menacing dog", which will allow councils to place controls on dogs that have exhibited aggressive behaviour or have attacked causing non-serious injury. The bill will increase penalty notice amounts and court penalties for failure to register a companion animal and where a dog has been involved in an attack. The new penalty for owning or being over 16 years of age and in charge of a dog that attacks a person or animal will be a fine of $44,000. The penalty for owning or being over 16 years of age and in charge of a dog that attacks a person or animal, if the incident is a result of a reckless act or omission, will be a fine of $55,000 and four years in jail. The penalties also include a fine of $77,000 and five years in jail for owning a classified dog that attacks a person, if the incident is the result of the owner's failure to comply with controls on that dog; and up to $77,000 and five years in jail for a person who urges a dog to attack a person or animal.

Lastly, these amendments will increase the cost of registration in line with the consumer price index to help fund prevention initiatives. Two new programs to be funded through this fee increase will be the expansion of the existing pet education program to preschool children and families expecting a child, to raise awareness of how to act and be safe around dogs and to prevent attacks. The second program is a council grants program to deliver targeted microchipping, registration and desexing programs. This program will focus on areas with large numbers of unregistered dogs, dog attacks or dangerous dog associated issues. This Government takes dog attacks and irresponsible owners of dogs extremely seriously. We will bring such people to account.

In Camden we have many dedicated and responsible pet owners. When I was on Camden Council I supported Camden Council's annual Paws in the Park and I have continued to do so in my present role as the member for Camden. I have been on the event's committee since its inception in 2011. Two Sundays ago the third Paws in the Park event was held at Camden Bicentennial Equestrian Park. Many more than 2,000 people streamed to this much-loved event throughout the day with their four-legged family members to participate in the walk around the park, look at the many stalls or participate in the many events. Entry to the event was by gold coin donation and council took the initiative of the State Government to use the money raised to allow rangers to go to primary schools in the Camden local government authority to educate children on responsible pet ownership. That is local government working with the State Government. In previous years money raised has gone into microchipping initiatives and to purchase toys for animals in our local pound, Renbury Farm.

I thank my fellow organising committee members: the mayor, Lara Symkowiak, who as chairperson was instrumental in the formation of the inaugural event two years ago; Councillor Debby Dewbery, Michelle

Burrell, Kerrie Armstrong and Elaine Arriguetti from the *Camden-Narellan Advertiser*—huge supporters of the event; Colleen Ritchard from the University of New South Wales; Emma Johnson, Geoff Green, Michelle Gallo, Tanya Palmer, Nicole Magurren from Camden Council; Peta Wilkinson from Royal Canin; Peter Standen from the BEP Men's Shed; Steve Ferguson from Macarthur Veterinary Group; and Ted Gillroy from the Macarthur Lions Club. The Lions did an outstanding job on the barbecue on the day. I also commend councillors Therese Fedeli and Peter Sidgreaves who were an outstanding help on the day. I single out all the members of Camden Men's Shed who helped prepare the walking track and were integral to the setting up and later packing up as well as contributing to the overall success of the day.

Mr Greg Piper: What is this bill about?

Mr CHRIS PATTERSON: In response to the member's interjection: This is about all levels of Government working together for responsible pet ownership and a council taking the initiative to follow the State Government's lead, which is commendable. I acknowledge the former mayor's excitement and encourage him to get his council on board and do a bit more for responsible pet ownership. I will get back to the bill.

ACTING-SPEAKER (Ms Sonia Hornery): Order! That is a good idea.

Mr CHRIS PATTERSON: It took many more people to organise the day and make it the success it was, along with the valued sponsors of the event: Camden Council, Royal Canin, the *Camden-Narellan Advertiser*, Channel Nine, the New South Wales Government with the Premier sponsoring $1000, Macarthur Lions Club, Appealing Images by Grant Goldsmith, Bark Busters, Advantage, Derks Produce, Macarthur Veterinary Group, the University of Sydney, Aussie Pooch Mobile, Festival Hire, Vicki Patterson Chiropractic, Butterfly Wings Animal Rescue, Renbury Farm and Paws and Relax Animal Massage. Paws in the Park is a community event that brings our community together. I congratulate all involved in the events on the success this year. To have so many people and their four-legged family members participating in the three- or five-kilometre walk with not one problem on the day clearly shows that the people of Macarthur take responsible pet ownership seriously.

We had the privilege of having the Minister for Local Government in Camden to launch the event, and I thank him for his support of responsible pet ownership not only in Camden but in the whole of New South Wales. This Government acknowledges that awareness and education are keys to changing people's attitudes to animal ownership now and in the future. I commend the Ministers and all the hardworking staff for their hard work on this bill. Reluctant though I am to single out one person it would be remiss of me not to mention—excuse the pun—Darren Bark, from the Minister's office, for helping so many barkers of the future. I commend the bill to the House.

Mr GREG PIPER (Lake Macquarie) [10.57 a.m.]: It is wonderful to follow the private member's statement from the member for Camden. I speak in support of the Companion Animals Amendment Bill 2013 and to commend the Minister and those involved, particularly my friend and colleague from the Hunter the member for Charlestown, Andrew Cornwell, for developing this amendment bill. My interest in this bill is at least twofold. Firstly, coming from a background in local government, as mentioned by the member for Camden, I am acutely aware of the difficulties faced by local councils in making and enforcing control orders on dangerous dogs and I welcome any move that will make this area of council regulation more straightforward.

As a member of a local community and as a citizen as well as a father and a grandparent, I am equally aware of the threat that uncontrolled dangerous dogs pose to those who live around them, particularly to children who are too often the innocent victims of vicious dogs that escape their enclosures or turn violent on the street. There was a high-profile incident in my neighbourhood this year, which illustrates both the inherent danger of violent dogs and the challenges faced by councils in ensuring they are controlled.

In February, a 10-year-old family dog, a Staffordshire-cattle cross, was mauled to death by four American Staffordshire terriers from a neighbouring house in Mirrabooka, in southern Lake Macquarie. That is the very suburb in which I live. Two of the attacking dogs were also killed in the incident when the owner of the dog under attack sought to defend it. Two children from the family whose dog was killed, aged 12 and 10, were inside their house when the four American Staffordshire terriers entered their property at 3.00 a.m. The fallout from this regrettable and preventable incident was that, while the owner of the dogs that initiated the attack was charged with four dog attack offences, the owner of the dog that was attacked was also taken to court and charged with cruelty to animals for killing two of the attacking dogs.

He pleaded guilty, although the magistrate declined to have a conviction recorded. This is a very complicated issue—we are talking about not only the control of dogs but also the relationships between people. In that incident the situation was extremely complicated. It was a vexed issue. If the incident involving the dogs had not arisen then it is easy to imagine some other incident occurring—and that makes it much more complicated for those who are responsible for regulating the situation. Lake Macquarie City Council has received criticism from members of the community and the local media for failing to prevent this and other attacks. I think that is grossly unfair. It has been very difficult, to date, for it or any other council to deal with a dog which might appear threatening but which has not been involved in a serious attack.

In this case, despite previous complaints about dogs from the same property, including one alleged attack, the council said it did not have enough evidence to declare the dogs as dangerous. The RSPCA said it did not have enough evidence to take action under animal cruelty laws. This bill addresses that by introducing a new category of "menacing dog" that allows councils to issue control orders, such as muzzling and enclosure orders, for dogs that have exhibited aggressive behaviour. This classification will sit between the existing classifications of "dangerous" dogs, which are determined by behaviour, and "restricted" dogs, which are determined by breed.

Dogs classified as "dangerous" are those which have already been involved in a serious attack, which have repeatedly threatened people or which are used for hunting. It can be difficult to prove this if an attack has not occurred, so councils tend not to use the controls. The new classification makes it easier for councils to act on dogs which have displayed aggression but which have not been involved in a serious attack. I have spoken to the manager responsible for this area at the Lake Macquarie City Council, Mr Keith Stevenson. He is very appreciative of the engagement of the member for Charlestown in developing this new system—and he has spoken with departmental officers as well. The council now feels there is a much greater opportunity for early intervention when members of the public bring issues to its attention.

This is not only about councils acting in isolation; as the public learns that there are new mechanisms in place and it is not a case of all or nothing, residents may be more inclined to advise councils of the risks associated with dogs in their area. The controls for menacing dogs are less restrictive than those for dangerous dogs, but include muzzling and leashing them when in public, desexing and microchipping. The dog will also have to be enclosed in such a way that a young child cannot have access to it without adult supervision. That is an important provision given the death of a toddler in Deniliquin who was attacked by a dog in his grandmother's backyard earlier this year. Although that dog had no record of dangerous behaviour and the incident was a tragic accident, it is a reminder of the vulnerability of young children in the presence of dogs. They often do not pick up on the danger signs that may indicate a dog is in an aggressive mood.

The bill also increases penalties for failure to register a companion animal, introduces penalties for owning or being in charge of a dog involved in an attack, and introduces jail terms for owners of classified or non-classified dogs involved in an attack. It increases the jail term from two to five years when the attack is by a classified dog and is the result of an owner's failure to comply with control orders. I have some questions about how the bill will be enforced. Enforcement is always a problem. For example, I wonder how realistic it is that the increased fines will be paid and how much of a deterrent they will be given that our aim in introducing this legislation is to prevent attacks rather than to punish people after the event. I imagine this will pan out over time, and I trust that a watching brief will be maintained.

I am also concerned that the new provisions could have unintended consequences for owners of an otherwise friendly dog that snaps without warning and attacks someone. Could this put them in a position where they might have to pay an exorbitant fine or even face a jail term for what was essentially an unforeseen event? The tragic Deniliquin attack I mentioned earlier is a case in point. No-one would want to see the family of that dog facing fines or even jail terms after the trauma they have already faced in losing a child. I imagine the leeway lies with the council or the police in determining whether or not to bring charges, but I trust the Government will maintain a watching brief on this aspect of the legislation.

Overall, I am supportive of this bill and its objective of giving councils more scope to act to prevent attacks by dangerous dogs. I acknowledge the hard work of the Minister; the staff of the Minister; and the member for Charlestown. I look forward to the next round of amendments to the Companion Animals Act. Perhaps we will one day be able to do something about the issue of barking dogs, which can also trigger domestic hostilities in local neighbourhoods.

Mr ADAM MARSHALL (Northern Tablelands) [11.06 a.m.]: It is with great pride that I speak in support of the Companion Animals Amendment Bill 2013. At the outset I acknowledge the great efforts of the

Minister and the member for Charlestown, who chaired the New South Wales Companion Animals Taskforce. The fact that the task force received more than 5,300 public submissions—a huge number by any measure—demonstrates the contentious issues associated with companion animals in our community. Anyone who has spent any time in local government would know that dangerous dogs and companion animals always spark a lot of community conversation and input. I commend the Minister for grasping the mettle on this issue, because it is a difficult one.

The bill before the House today is very sensible. It addresses community concerns resulting from a number of dog attacks of late, and the concern, held by not only the community but also councils, that the existing legislation does not provide clarity or legal teeth for local authorities that want to take action against dangerous dogs and their owners. The bill amends the principal act, the Companion Animals Act 1998, in a number of ways. I will confine my remarks to the introduction of the new category of "menacing" dog, which is the centrepiece of the new bill and will be very much welcomed. Indeed, the possibility of this new category being introduced has been enthusiastically welcomed in the conversations I have had with the local councils in my area. It will allow local communities and councils to take proactive action against dogs rather than waiting for the tragic circumstance where they attack, kill or maim people. Schedule 1 [25] to the bill provides that a dog is menacing if it:

(a) has displayed unreasonable aggression towards a person or animal (other than vermin), or

(b) has, without provocation, attacked a person or animal (other than vermin) but without causing serious injury or death.

That is a very good halfway point to the declaration of a dangerous dog in the Act. The menacing dog category will be used frequently by councils for dogs which display aggressive tendances and show signs of attacking but which up to this point have not attacked or maimed anyone. This allows councils to take the appropriate proactive steps to prevent an attack and to place onerous responsibilities on the owners of those dogs. Hopefully that will prevent those dogs from ever maiming someone or worse, as we have seen recently.

I also support the tougher penalties for failure to register and attacks. I agree with the member for Lake Macquarie that we could debate for hours whether those extra penalties will act as a deterrent, but the fact is they send a strong message that we expect a certain standard. People who own dogs have an enormous responsibility and they should take it seriously. If they do not and their dogs attack or if they do not register their animals there will be serious penalties. It is right and in line with community expectation that those people face tough penalties.

Other aspects of this bill warrant discussion, but they have been touched on by other members so I will not address them in detail. For people in my electorate in particular I make it clear that working dogs are exempt from these changes, as they always have been. The declaration of menacing dog and so forth will not affect working dogs. Again, I commend the Minister and the member for Charlestown. Bringing forward this bill has been a mammoth task. It is a sensible bill that will be welcomed by communities and councils. As I said, the menacing dog declaration is smart and practical. I commend the bill to the House.

Mr TONY ISSA (Granville) [11.10 a.m.]: I support this important piece of legislation introduced by the good Minister for Local Government, the Hon. Don Page. The Companion Animals Amendment Bill 2013 amends the Companion Animals Act 1998. I make it clear that we do not discriminate against animals, but we must enact legislation to ensure that we provide a safe environment for our community and especially our children. The object of the bill is to enable certain breeds of dogs to be declared by the Local Court or council officers as menacing and to provide special controls and more serious offences in relation to those dogs. The bill also will shorten the period within which an owner of an unregistered companion animal who has been given notice by a council officer must register their animal and will allow subsequent registration notices to be issued more often.

The bill will clarify the circumstances in which a council officer can seize a dog that is the subject of a proposed dangerous or menacing dog declaration. A dog is deemed menacing if it has displayed unreasonable aggression towards a person or animal or has, without being provoked, attacked a person or animal but without causing serious injury or death. Furthermore, the bill will enable the Local Court to order that the owner of the dog undertake responsible pet ownership training in specified circumstances.

The bill makes a number of amendments to the Companion Animal Regulation 2008 and the Criminal Procedures Act 1986. Under the bill, penalties for a number of offences in the Act will be significantly increased. This includes offences of failing to microchip and register animals and other offences related to dog

attacks. Currently, less than 60 per cent of microchipped animals are registered. That leads to a loss of revenue and subsequent loss of information in councils' information databases with regard to owners, their address and where the animal is housed.

Non-registration offence penalties have been raised from $880 to $5,500 for dogs not declared as menacing or dangerous and to $6,600 for dogs declared to be menacing or dangerous. Penalty notice amounts also have been increased. These increases should be a significant deterrent to pet owners who choose not to register their animals. There are significant increases in penalties for dog attacks, which can include jail terms for seriously reckless dog ownership. These severe penalties give the courts a degree of flexibility to deal with a variety of cases, with the maximum penalties being reserved for the worst cases. The imposition of these sorts of penalties makes it clear that dog attacks are taken seriously, and that the general community wants owners to take responsibility for the actions of their dogs.

I am pleased that local governments are providing access to parks to leash-free dogs. Those spaces allow owners to train their animals off leash and to learn responsibility. In my electorate of Granville we have two parks designated for leash-free dogs and training. They have been well utilised by dog owners who wish to exercise their animals and to be responsible owners. During my time as a councillor I became aware of the number of reported dog attacks on people that were the result of irresponsibility on the part of the owner and the subsequent long-term effects on children who were subject to attacks or who witnessed attacks. I support the Minister for Local Government and I support the bill.

Mr ANDREW CORNWELL (Charlestown) [11.15 a.m.]: I support the Companion Animal Amendment Bill 2013. By way of background, one of the complications of laws regarding companion animals is that they are the responsibility of two ministries. The Minister for Primary Industries is responsible for animal welfare and the Minister for Local Government is responsible for animal control. The Minister for Primary Industries, the Hon. Katrina Hodgkinson, and the Minister for Local Government, who is in the Chamber today, showed enormous foresight in establishing a task force to take a whole-of-government view of companion animal legislation. The task force was established in the middle of 2011 with an initial brief to look at the unacceptably high rates of companion animal euthanasia in New South Wales. The issue of dangerous dogs then raised its head and the Minister for Local Government and the Minister for Primary Industries indicated that reform was needed. Once we completed our deliberations on euthanasia rates in late 2012 we commenced a short inquiry into dangerous dogs and provided our recommendations to the Minister.

I thank the members of the task force: Tim Vasudeva from the Animal Welfare League; Dr Kersti Seksel from the Australian Companion Council; Steve Larsen from the Australian Institute of Local Government Rangers; Margaret Gaal from Bathurst City Council; Dr Julia Crawford from the Australian Veterinary Association; Kristina Vesk from the Cat Protection Society of New South Wales; Frank Loveridge from the Local Government and Shires Association; Tom Couchman from Dogs NSW and Steve Coleman from the RSPCA, who all made an enormous contribution. By having such a diverse range of stakeholders on the task force we were able to strike the right balance between reform and personal responsibility. There are things a government can do legislatively, but there is a point at which personal responsibility needs to take over. I feel that our recommendations and this legislation achieve that balance. I also thank some of the fantastic departmental staff with whom we worked. From the Department of Local Government I thank Glen Colley, Janet Pengelly and Vaughan Macdonald, who were fantastic. Angela Thompson, Ross Burton and Susanne Robinson from the Department of Primary Industries were equally terrific and provided sound advice during the process.

Returning to the need for this legislation, the issue of ranger powers arose during the inquiry. The existing dangerous dogs legislation is firm and is a strong tool. Because of that, councils have a problem in that they are often reluctant to use that mechanism for dangerous dogs in grey areas or where there may not be quite enough evidence. That highlights the fact that councils need an additional control tool. The member for Lake Macquarie spoke about the case in Mirrabooka, which is a classic example of there not being enough evidence for council rangers to proceed with a dangerous dog order.

In that case, an interim measure such as this legislation may have provided the council with a tool that it could have used to prevent what turned out to be a very nasty incident. Councils have been reluctant to use existing dangerous dogs powers because there was always the chance of the case falling over in court. If someone challenged the decision in court and the council had overreached, the legal process could be a very expensive and time-consuming exercise. This legislation provides council rangers with discretionary power whereby they are not obliged to use the court system. It provides rangers with the capacity to make a

judgement call. Rangers are highly experienced and well trained and we should put our trust in them to do their job. If they have a concern, they have capacity to use this legislative mechanism to deal with a menacing dog.

It is also important for the community to realise that although this legislation probably will result in the best framework in Australia for the management of dangerous dogs, at the end of the day the community has a role to play and nothing replaces acceptance of personal responsibility. In cases in which children are bitten—and they tend to dominate reports of dog attacks on human beings—there are three factors that are common to almost every case. Almost every attack occurred in a backyard and generally the child's backyard. This is not about dangerous dogs roaming the streets. The second factor is that the incident almost always involved a dog with which the child is very familiar, and generally it is their own dog or a dog belonging to another member of the family. Thirdly, in every case it involved a failure of supervision. To leave a young child unsupervised with the dog, regardless of how trustworthy that dog has been in the past, is like leaving a child unsupervised beside a main road or beside a swimming pool. It is an unnecessary risk.

The common factor in just about every incident involving a child being the victim of a serious dog bite was a failure to supervise by a parent or carer. I cannot emphasise to the community enough that no matter what we do legislatively—and this bill provides a very good framework—the community still has a big role to play. I will address a few concerns raised by members who contributed to this debate. I acknowledge the role of the member for Auburn as a former Minister for Local Government. She highlighted the fact that this bill builds on existing legislation and referred to section 33 of the Act. The issues to which she referred can be traced to rangers being a little reluctant to use current dangerous dog provisions because of their fear of either legal challenge or potential overreaching during implementation. I believe the menacing dog category in this legislation addresses those issues. She also referred to published dangerous dog data. I note that this Government is the first government to regularly publish data on dog attacks. One of the issues identified by the task force is the flaw in the current reporting system.

According to the website, the number of dog attacks is approximately 5,000 a year, which includes the chihuahua chasing the postman as much as it includes the terrible case that occurred in Deniliquin earlier this year. One of the task force's recommendations is separation of the incidents into dog incidents and dog attacks so that the data will be more useful. The member for Auburn also expressed concern about increasing the burden on rangers but, on balance, this legislation will ease their burden. It will allow them to exercise discretion in decision-making rather than being forced to take action through the courts. There are other task force recommendations that should ease the burden on local government. Therefore, on balance, I believe that the local government sector is very pleased with this legislation. The member for Wagga Wagga highlighted some of the issues that occur in regional areas of New South Wales. It is no coincidence that the majority of very serious incidents, which sometimes involve death as a result of dog attacks, occur in regional areas.

One of the reasons is that people own a large dog, which may or may not be used for hunting, and it is too large to keep in a suburban backyard. In regional areas, someone may rent a 100 acre property and the next thing we know they move with their 80 kilogram dog onto a 500 square metre block in the middle of town. It is a common theme. Personal responsibility needs to play a big role in those situations. Although people may have a large dog that is completely trustworthy, they nevertheless should be aware that it is a large and powerful animal. If a child is unsupervised in the presence of that dog, people are taking an unnecessary risk. The member for Fairfield stated that there have been delays in introducing this legislation, but that is untrue. This is a vexed and technical area of law, and that is highlighted by the fact that more than 5,000 submissions were received. People take a strong interest in dangerous dogs legislation. We must ensure that we pass legislation that will stand the test of time for the next decade. If that means we have to consult for an additional four weeks, that is perfectly reasonable. [*Extension of time agreed to.*]

The member for Fairfield also stated that some attacks were preventable. The mechanisms this bill will put in place will give local government additional tools to proactively get dogs off the street as a preventative measure. However, I emphasise again to the House that nothing replaces acceptance of personal responsibility. Regardless of what governments do and the area of legislation, there will always be some people who will continue to flout the law and ignore common sense. The message from this legislation to the community must be about the need for common sense and supervision.

The Minister for Primary Industries contributed to debate on the bill and I thank her enormously for her leadership in this area. Both the Minister for Primary Industries and the Minister for Local Government

deserve enormous credit for setting up the task force that enabled the adoption of a whole-of-government approach to dangerous dogs legislation. Sometimes because of the way government is structured, one particular department does not have carriage in an area that needs a degree of regulation or legislation. The task force has enabled us to get around that and demonstrated enormous foresight. In coming decades both Ministers will be given enormous credit for adopting a flexible approach that has led to a sensible formulation of this legislation rather than the adoption of a narrow knee-jerk response that sometimes occurred in the past. The member for Murray-Darling referred to a dreadful incident that occurred in his electorate, which highlighted some of the issues in regional New South Wales concerning large dogs which may have been on a large property but which have subsequently ended up in town. That is problematic. The member for Camden made an insightful and somewhat shameless contribution to the debate and highlighted some of the work of the Camden Council. It would be remiss of me not to mention that targeted programs are a very important local government mechanism.

Some years ago the Bathurst City Council implemented a project in a particular geographic area of the Bathurst electorate where there was a large number of stray dogs and a high incidence of dog bites, but low levels of animal de-sexing. The council adopted a holistic approach, invested funds, and its targeted program in Kelso achieved a demonstrable financial benefit over some years. The council targeted microchipping, cheap de-sexing and public education. The program that was implemented in Kelso stands as a model that local government statewide should examine. There is no point introducing blanket rules concerning cut-price de-sexing across New South Wales that might have very little effect in Ku-ring-gai but a massive effect in Collarenebri. The issue needs to be examined in a regional context and in terms of the best expenditure of public money, but the program needs to be targeted.

The member for Lake Macquarie referred to the Mirrabooka incident to which I referred earlier. The amendments in the bill would have assisted in that case. I acknowledge the advocacy of the member for Northern Tablelands on behalf of his electorate in relation to this issue. He also highlighted some of the issues that occur in regional areas of New South Wales. The member for Granville referred to smaller than usual block sizes in his electorate. If people own an inappropriate animal in that area or inner-city areas, it can cause a problem for the entire neighbourhood. In conclusion, this legislation provides a terrific additional tool for local government. However, I again highlight to the House that despite achieving the best legislative framework for dealing with dangerous dogs in Australia, personal responsibility is absolutely the key factor. Every dog bite that has happened since man domesticated the dog thousands of years ago has been caused by one of the five following factors or a combination of them: failure of early socialisation of the animal, genetic factors, failure of later socialisation and training of the animal, medical conditions the animal may suffer, and victim behaviour. It is about human behaviour as much as animal behaviour. The Companion Animals Amendment Bill 2013 addresses those issues, and I commend it to the House.

Mr DONALD PAGE (Ballina—Minister for Local Government, and Minister for the North Coast) [11.30 a.m.], in reply: I thank those members who have participated in debate on the Companion Animals Amendment Bill 2013 and note their support for it. I acknowledge my ministerial colleague the Hon. Katrina Hodgkinson, Minister for Primary Industries, and Minister for Small Business, who, as the member for Charlestown stated, has taken a whole-of-government approach. The Minister is responsible for the Prevention of Cruelty to Animals Act 1996 and I am responsible for the Companion Animals Act 1998. The issues that we have been discussing cover both Acts, and I acknowledge the Minister's contributions to past debate and her comments today.

I acknowledge also the member for Charlestown, whom the Minister for Primary Industries and I appointed as chair of the Companion Animals Taskforce. Parliament, dog owners across the State and the community generally are fortunate to have a person of his calibre to head the task force. He is an experienced veterinary surgeon who still practices, as much as time permits, and I cannot be more fulsome in my praise of his efforts as chair of the task force. He has done a fantastic job, together with the other members of the task force whom he identified in his contribution. I sincerely thank the member for Charlestown and the task force for the wonderful effort they have put in. I note that the Opposition will not oppose the bill and nor will it oppose some minor amendments that I foreshadow I will move when I have concluded my speech in reply. They are technical amendments that Parliamentary Counsel has advised must be moved in order to improve the legislation.

I do not propose to go through all the points that were raised in debate, but I acknowledge the contributions made by members representing the electorates of Wagga Wagga, Auburn, Fairfield,

Murray-Darling, Camden, Lake Macquarie, Northern Tablelands, Granville and Charlestown. The member for Charlestown, as chair of the task force, addressed all the issues that the member for Auburn raised in her contribution. My only additional comment relates to the member's reference to a United Services Union amendment that Labor may move in the other place. I have discussed the matter with the union and considered its concerns. Labor members expressed concern that the bill could pose additional dangers for council rangers and sought a response from the Government. We researched the issue and found that under the workplace health and safety legislation every employer has a responsibility to provide a safe workplace.

It was found that in some cases prescribing what might happen to a particular ranger in a particular circumstance could compromise the general principle of providing a safe workplace for that ranger. That being the case, it would not be helpful to prescribe safeguards in legislation because it could affect the safety of council rangers. I understand that the United Services Union has conceded that advice and has asked the Opposition not to move the amendment in the other place. In response to the comments of the member for Auburn about introducing the new category of "menacing dog", I reiterate a couple of important points that the member for Charlestown made. It is true that in the past councils have been reluctant to categorise a dog as "dangerous" when they know that, by so doing, they may be subject to a court challenge. Councils do not want to go to court unless they have to. So unless they believe the evidence is overwhelmingly in their favour they are reluctant to categorise a dog as "dangerous".

The introduction of the new "menacing dog" category will enable councils to make a judgement about a dog that is behaving aggressively even if it has not yet attacked. The dog can be subject to muzzling and be required to be kept on a lead in public and under the control of someone who is 18 years of age or over. The category of "menacing dog" would not warrant the dog being kept in a childproof enclosure in a person's backyard as applies to the category of "dangerous" dog. It is important that we understand the practicalities and benefits of introducing this legislation, with the category of "menacing dog". I reiterate the point the member for Charlestown made about the failure to supervise children near a dog. I emphasise, as he did, that most of the dog attacks in which people are seriously injured or killed occur in their own backyard, when the dog is known to the victim and almost always when there is a failure of supervision of children by adults.

I again commend everyone who has contributed to the debate. I particularly commend the member for Charlestown as chair of the task force and the people he worked with for the wonderful job they have done. This is the first tranche of legislation relating mainly to dangerous dogs and there will be more in future as a result of the 38 recommendations that the task force made. I thank it for its contribution. As I said before, Parliamentary Counsel has indicated to me since we introduced the legislation that a few minor amendments need to be moved—I will do that during the consideration in detail stage—to ensure that the legislation leaves this House and goes to the other place in the best possible form.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Bill read a second time.

Consideration in detail requested by Mr Donald Page.

Consideration in Detail

ACTING-SPEAKER (Mr Gareth Ward): By leave, I will propose the bill in groups of clauses and schedules.

Clauses 1 and 2 agreed to.

Mr DONALD PAGE (Ballina—Minister for Local Government, and Minister for the North Coast) [11.38 a.m.], by leave: I move Government amendments Nos 1 to 3 on sheet C2013-140A in globo:

No. 1 Page 4. schedule I [10], lines 15 and 16. Omit all words on those lines. Insert instead:

[10] Section 11 Owner required to notify certain changes and events

Omit "is dangerous" from section 11 (1) (b).

No. 2 Page 5. schedule I. Insert after line 44:

[18] Section 23 Disqualification from owning or being in charge of dog

Insert "(1AB) or" after "section 16" in section 23 (1) (a).

[19] Section 23 (2) (b)

Insert "or (1AA)" after "section 16 (1)"'.

No. 3 Page 10, schedule 1. Insert after line 11:

[47] Section 57D Declared restricted dogs may be seized and destroyed after transition period

Insert ", (1AA) or (1AB)" after "section 16 (1)" in section 57D (2) (b).

As I have indicated, since the introduction of the Companion Animals Amendment Bill 2013 the Parliamentary Counsel has advised that three minor technical amendments are required to clarify the bill. The amendments do not impair the central function of the bill; they seek simply to correct three technical issues.

Question—That Government amendments Nos 1 to 3 [C2013-140A] be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 to 3 [C2013-140A] agreed to.

Schedule 1 as amended agreed to.

Schedules 2 and 3 agreed to.

Consideration in detail concluded.

Third Reading

Motion by Mr Donald Page agreed to:

That this bill be now read a third time.

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

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The Acting-Speaker (Mr Gareth Ward) tabled, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, the report entitled, "Reducing the Opportunities and Incentives for Corruption in the State's Management of Coal Resources", dated October 2013.

Ordered to be printed.

INFORMATION AND PRIVACY COMMISSION

Report

The Acting-Speaker (Mr Gareth Ward) tabled, pursuant to section 39 of the Government Information (Information Commissioner) Act 2009 and section 61D of the Privacy and Personal Information Protection Act 1998, the report of the Information and Privacy Commission for the year ended 30 June 2013, incorporating the report of the Privacy Commissioner.

Ordered to be printed.

OMBUDSMAN

Report

The Acting-Speaker (Mr Gareth Ward) tabled, pursuant to section 31AA of the Ombudsman Act 1974, the report of the NSW Ombudsman for the year ended 30 June 2013.

Ordered to be printed.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE

Report

The Acting-Speaker (Mr Gareth Ward) tabled, pursuant to section 26 of the Commission for Children and Young People Act 1998, the report of the Commission for Children and Young People for the year ended 30 June 2013.

Ordered to be printed.

INSPECTOR OF THE POLICE INTEGRITY COMMISSION

Report

The Acting-Speaker (Mr Gareth Ward) tabled, pursuant to section 103 of the Police Integrity Commission Act 1996, the report of the Inspector of the Police Integrity Commission for the year ended 30 June 2013.

Ordered to be printed.

PLANNING BILL 2013

PLANNING ADMINISTRATION BILL 2013

Second Reading

Debate resumed from 29 October 2013.

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [11.41 a.m.], in reply: I thank the House for its indulgence to enable me to conclude my speech in reply to the cognate bills: the Planning Bill 2013 and the Planning Administration Bill 2013. In my brief reply last night I thanked all members who had spoken in the debate. I appreciate their contributions to such an historic debate, which will have a great impact on the future of New South Wales and on Sydney in its capacity to deliver homes, jobs and environmental protection that this and future governments will need to address. Again, I acknowledge members representing the electorates of Port Stephens, Heffron, Hawkesbury, Bankstown, Monaro, Fairfield, Northern Tablelands, Wollongong, Tweed, Sydney, Lakemba, Mulgoa, Cessnock, Pittwater, Lake Macquarie, Maroubra, Kiama, Keira, Penrith, Balmain and Auburn for their contributions.

The essence of this planning legislation is to facilitate a planning system to ensure that every member of the community gets a say in their local areas on how their community will develop. It will ensure certainty in planning processes and local planning for local communities. I repeat: Nothing is more important than a planning system that will ensure everyone has a say, there is certainty in planning processes and there is local planning for local communities. We need a planning system to deal with future challenges. The Government has listened extensively to what the residents of New South Wales want and expect from a new planning system. It has taken 33 years for the New South Wales Parliament to have the opportunity to debate, discuss and engage in a new planning framework. For 2½ years communities around the State engaged, discussed and debated what should be in that framework.

As I said last night, this journey started more than two years ago with the appointment by the Government of a former Liberal environment Minister, the Hon. Tim Moore, and a former Labor Minister, the Hon. Ron Dyer, to lead discussions around the State. They did a magnificent job, having discussions in all parts of the State. They then produced their paper, which informed the green paper that was issued in April 2012. The green paper attracted approximately 1,200 submissions, which were considered by the Government and a range of other specialists from a broad spectrum of organisations. The result was the white paper setting out the forward direction of the Government. At that point, if a government seeks to follow the traditions of the Westminster system—we have done so with this planning legislation—it is normally expected that legislation will be forthcoming almost immediately; there is not necessarily draft legislation put out for public debate. But the O'Farrell Government continued to listen and engage with the broad spectrum of our community.

The draft legislation and the white paper have been on exhibition since July. We indicated that the Government would consider further suggested changes, and we did. We listened and made changes. Last night I laid on the table a summary of bill changes that was provided to a range of stakeholders who had been engaged with us on this journey. By way of clarification to those not closely involved in the process, that summary of bill changes consists of an extensive suite of changes comprising 12 pages that relate to various parts of the Act. In fact, almost all of the Act has had some either modest or substantive changes made in response to public discussion on the bill in July this year. That is a very unusual process that I have seen only once before in my 22 years in Parliament.

We come to this place with transparency and absolute integrity in our approach to the planning reforms necessary for this State. As I said, the Government continues to listen. Notwithstanding that these bills are the culmination of unprecedented consultations, we continue to listen. Since coming to government we have talked with and listened to communities, businesses, organisations, planning practitioners, architects, environmentalists and individuals to create a better planning system for New South Wales that should be more strategic and streamlined, facilitate economic growth, be sustainable, protect our environment and biodiversity, and enshrine community participation at its absolute core. It is now time to get on with the job that was given to this Government. It is now time to get on with providing a planning system that achieves those objectives that have been talked about. It is time to ensure that we have a planning system that will take New South Wales forward for at least another 30 to 40 years.

In addition to giving everyone a say, giving certainty in planning processes and ensuring that there is local planning for local communities these bills will ensure that powers are restored to local councils as representatives of their local communities to ensure that confidence and integrity are restored to the planning system after the dark years of the former Labor Government, which almost single-handedly destroyed the community's confidence in the planning system and opened it to abuses beyond belief to benefit itself. The O'Farrell Government presents to Parliament a planning system that is about the community. It is about ensuring that the community is front and centre from beginning to end and that there is transparency so that no future government will ever do what the former Labor Government did to the planning system of New South Wales and its people.

We need a new planning system to deal with the challenges of the future. We do not need, as the member for Heffron suggested, a planning system from the past. That system is broken because it lent itself to the abuse that was rife under the former Labor Government. It will no longer suffice for New South Wales. We have talked enough. Now is the time to install a modern, streamlined planning system that delivers the housing supply that the residents of New South Wales need. It is time to deliver a planning system that will ensure the best opportunities are provided to create the jobs that are needed to drive the New South Wales economy to make it number one again.

I turn to some of the issues raised by members during the debate. The member for Heffron and the member for Sydney called for ecologically sustainable development to be included in the bill. The Planning Bill 2013 takes a new approach for New South Wales, but it has been the approach of the majority of Australian States and Western democracies for many, many years. The main purpose of the new planning system, other than the underlying critical issue of protecting our environment, is to promote economic growth and development in New South Wales for the benefit of the entire community. I stress that that economic growth and development has to be delivered essentially to protect the environment and our biodiversity, and to enhance the way of life for the residents of New South Wales.

To do this the planning system must facilitate development that is sustainable. Sustainable development requires the integration of relevant economic, environmental and social considerations in decision-making about planning development. The Planning Bill 2013 requires a better balance of economic, environmental and social considerations to deliver sustainable development. The bill is in line with the United Nations 1987 Brundtland report. We are bringing the New South Wales planning system into the twenty-first century. It has taken many years for New South Wales to recognise what the rest of the world has recognised in order to achieve the balance that is required for sustainable development.

I turn to the environment issue that was raised in debate. A number of members, including the member for Heffron, said that the bill does not provide adequate environmental protections, including dealing with cumulative impacts. That is simply not true. The bill retains all the important and much-valued environmental protections of the current planning system. These include all the environment protections set out in the current

environmental planning instruments and concurrence requirements to protect threatened species. Contrary to the information given to this House by members opposite, not only have we retained these existing protections but also the O'Farrell Government has gone further.

The member for Heffron called for better assessment of cumulative impacts of development. Improved planning outcomes will flow from cumulative impact assessments done up-front at the strategic planning stage. The bill requires strategic assessment statements to be prepared and made publicly available with strategic plans so that we can deal specifically with cumulative environmental impacts. Resolving the interface between future land uses and environmental constraints early in the planning process enables positive growth and development whilst protecting our quality of life and our environment. The bills also better integrate biodiversity assessment at a strategic level so that the cumulative impacts of development across a region will be considered when tailoring conservation measures at the local level.

Critically, the bill provides stronger penalties to deter serious, deliberate flouting of planning controls and protects the environment. For the first time since 1999, penalties have been increased so that they are now in line with our other environmental legislation. The message is clear: This Government will protect the environment through every measure available to it. I now will set the record straight about code assessment. The member who led in this place for Labor made some statements about code development that are simply incorrect. I emphasise that there is no automatic approval of all code development applications. Code development can be refused. Code development undergoes a thorough assessment by professional council staff and it can be conditioned to properly address environmental impacts. Experts can be used in code assessment to sign off on architectural design quality. The tougher rules around codes guarantee that they will never apply to State heritage items, Aboriginal heritage and development that might affect threatened species.

The qualities of the environment we live in which the community values the most will be protected. The Government has listened to the concerns of the community and made sure that if a development does not meet the standards in a code—even if it is as little as by one centimetre—a full merit assessment will apply. So the community gets a say initially in the development of the codes in their local area, and then they get a say if someone seeks to go outside those codes. Indeed, the community gets a say at every level. I turn now to community participation more broadly.

Under the current legislation the existing public consultation regime is a one-size-fits-all approach. But the Government recognises that we need planning decisions to be informed by a range of opinions and ideas from a broad spectrum of people living in the community and this requires creating genuine opportunities for engagement that are tailored to suit individual communities. The Planning Bill provides for planning authorities to be able to choose methods of community engagement to suit different demographics in different locations. I remind the House that there are 152 councils in New South Wales—152 local government areas that require community engagement to be tailored to their local area.

It is not a matter for the State Government or the Labor Party to tell local communities how that engagement should occur. We do not seek to do that. But, for the first time, we have a public participation charter that will set out some core issues for participation. This is critical because some councils do extraordinarily well but others do not do as well as the community would perhaps like. It is not the role of the State Government to take hold of every local government area in this State and tell them what to do. Our role is to ensure that local councils listen to their communities in a way that suits that local government area. How a council engages in the inner city is often substantially different from the engagement with rural and regional communities.

Over the past 2½ years I have met with council officers and mayors in regional areas and heard that message time and again. The former Labor Government did not seem to get that message because it introduced a one-size-fits-all 2009 State environmental planning policy, with no capacity to tailor that central policy to local areas. The O'Farrell Government is ensuring that all 152 councils have a capacity to tailor the complying development code to their local area. We are empowering local councils to have a say at the local level and to ensure that it translates into what is happening in their local areas. That is totally different from what happened under the Labor Government.

I point out—particularly to those from Labor and The Greens who do not appear to have read the bills—that those who have read the bills acknowledge the significance of what the Government is doing. For example, a press release issued by Local Government NSW states:

> Local Government New South Wales has achieved significant amendments to the draft Planning Bills prior to them being introduced in NSW Parliament today, with a greater focus in the Bills' objectives on sustainable development and community inclusion.

Those on the other side who do not seem to think that the Government has listened are in the minority. The press release notes:

> Minister Hazzard has listened to the concerns of councils and communities alike and included sustainable development in the upfront objectives of the Act and triple bottom line considerations in merit assessable applications, which will still be dealt with by councils.
>
> What's more, the Bills' underpinning objectives now also recognise biodiversity conservation, natural resource management including agricultural land, and retain the same heritage protections as the current Act.

It continues:

> Local Government has maintained its strong role in the planning system, with the bill guaranteeing a majority of councils on Sub-Regional Planning Boards.

Local governments, as representatives of our local communities, well understand. The bill provides the necessary legal protections to ensure that the rights of our communities are properly protected. I completely reject the statement made by the member for Fairfield that community rights have been reduced. The Government has continued the community's existing rights of appeal and for the first time, in addition to the issues I have just put before the House, there are expanded rights of review for the preparation of strategic plans. I can assure the member for Sydney that under the bill planning agreements will be able to provide for affordable housing.

A moment ago I referred briefly to the views of local governments as expressed by Local Government NSW. It was almost a metaphor for the hypocrisy of the former Labor Government when the member for Wollongong told us last night what should happen to planning in New South Wales. I can assure the House that the experience of the member for Wollongong may well come from her involvement in the Wollongong scenario that led to such lengthy and detailed hearings before the Independent Commission Against Corruption, but our experience is that of working with Local Government NSW representatives at all levels and working with the community across New South Wales. Through the entire reform process the Government has consulted at length with all levels of local government. As I said earlier, local government very much supports what the Government is doing.

Obviously the Government needs to work through certain issues with local government; that is what State and local governments should do. I can inform the House that Keith Rhoades, the newly elected president of Local Government NSW, expressed support for the changes in a letter to me dated 17 October. He said they "demonstrate that the New South Wales Government has been responsible to local government". I make it clear that the Government will continue to work with local government to address these issues. Finally the legislation is before the House, and yet it would appear that no Labor members have actually read the bill—or, if they have, have read very little of it. Labor members talked about a range of issues in this place last night. They told untruths. They suggested that the bill was being pushed through the Parliament with undue haste when in fact that is not the case at all—the bill is proceeding in complete compliance with the standing orders of this place. In fact the Government went beyond what is required under the sessional and standing orders of this place to ensure that, right up until the last moment, there is the opportunity to discuss this bill and for the community to be heard.

The Independent Commission Against Corruption has indicated that it is satisfied with the process that we have adopted in this major effort to bring this much-needed new legislation to the Parliament. On 22 October the Hon. David Ipp, AO, QC, wrote to the Director General of the Department of Planning and Infrastructure. He noted that in earlier correspondence he had raised various issues. Amongst other things, he said:

> In response to my letter of 18 October, the Department has outlined a number of measures. I particularly note the Department's undertaking that it will develop assessment criteria for variations to development standards that will be more robust than those which apply under the current system. The implementation of this proposal and the other measures outlined in your letter of today will address the Commission's concerns to a significant extent. Of course, the Commission cannot comment on the precise nature of supporting documents that are not drafted.

In other words, the Hon. David Ipp was saying that what we have done to date satisfies the requirements of the Independent Commission Against Corruption. He is also expressing, quite properly, and as an independent commission against corruption should, that as the new regulations and the new planning policies roll out the commission will want to work with the Government on them. Of course the history of this Government during its 2½ years has been to work with the commission on these issues. We are absolutely committed to making sure

that we work with the Independent Commission Against Corruption to present a planning system to the people of New South Wales that is, as far as humanly possible, corruption proof; and at least capable of ensuring that any future Labor government cannot do what Labor did when it was last in government—that is, to destroy the planning system. Labor destroyed people's confidence in the planning system and behaved in a way that no member of the community would find acceptable. I seek leave to table a letter from Hon. David Ipp dated 22 October 2013 and a media release from Local Government NSW, which I referred to earlier, entitled "Local Government NSW achieves changes to planning bills".

Leave granted.

Documents tabled.

Today we have heard what can only be described as a very shallow analysis and assessment from Labor members of what is an extremely complex planning framework. Every planning framework by definition weighs up relative complex merits. Planning is never easy. It was disturbing to walk into this place last night and be met with a tirade from those opposite. It was clearly not a tirade of wisdom—it was anything but wisdom—it was a political charade. Members who did not understand the first thing about planning in New South Wales—some who are living in the dark ages; some who forgot that they come from a party known for corrupt practices—wanted to tell us that all the work we have done over the past 2½ years on this was not up to scratch.

I point out to the New South Wales public that not once has the New South Wales Labor Opposition under John Robertson or the two shadow Ministers in this area—Linda Burney and Luke Foley—ever made a submission during the 2½ year process of planning reform. There has been not one submission. There has been one letter from one small branch of the Labor Party in the Hunter. I thank them for showing an interest on behalf of the broader Labor Party. But we have not heard a word from the State Labor Party. They had plenty of opportunities. They were continually invited to the forums that we held. It was quite different from the way that Labor brought in the 2008 amendments—then everybody had to pay $250 to attend one function down at Australian Technology Park. I personally attended meetings in the boardroom of the Leader of the Opposition. I personally attended meetings in this place over the 2½ year process. Every single member of the Labor Party Caucus was invited. To their credit, some of them showed up. But not one constructive suggestion came from them in that 2½ year period.

Now the bill is before the Chamber. The community has a chance to be the beneficiary of a new, transparent, open planning system. It is in the interests of every individual—every individual gets to have their say and to be heard. And now the Labor Party is saying that it has some amendments. Even that is not true. As at today it does not have one, single, solitary amendment. I put on record that last night, after I heard the Labor Party foreshadow amendments, I saw there was a press release from Luke Foley. By the way, he has done not one thing since he became the shadow Minister. He has not sought to have even one exchange—the only exchanges we have had are the ones that I or the Government have initiated. I looked to see what amendments he had put forward but there was nothing. He said yesterday that he had amendments. He does not have amendments; there are no amendments at this point.

I say to the Opposition and the Opposition Leader: You have to get your house in order. The Opposition has a very bad track record when it comes to planning. It has a track record that has occupied many hours of hearings and cost millions of dollars at the Independent Commission Against Corruption. The Leader of the Opposition needs to get his house in order and to make sure that his team and his shadow Ministers produce the amendments. I am not talking about producing amendments on the floor of the upper House; I am talking about what those opposite have demanded of the Government and what the Government has offered—that is, discussion and consultation. At every step along the way we have put our amendments, our draft legislation, our bill, our white papers and our green papers out for discussion.

It is time the Labor Party showed the colour of its money—and that is an issue Labor really does understand. Labor needs to put its amendments out for community discussion. Labor members need to be out there showing us their needs and their demands. They had better not be the sorts of demands that they had during the 16 years of Labor government; they had better not be the sorts of demands that could lead us as a community back to that place down in Castlereagh Street that they know so well. What is the community saying about all of this? The community provides the jobs and contributes to the economy. The community wants to see New South Wales being number one again rather than being dragged down into the mire of corruption as it was during the 16 years of Labor government.

The Property Council of Australia had some things to say today, and they were not complimentary about the Labor Party. Perhaps the kindest comment today was made by Glen Byres, NSW Executive Director of the Property Council of Australia. He said, on ABC radio this morning:

> I guess what we'd say to all sides but particularly to the Opposition and the cross benchers is be sensible about how you approach the task of making amendments. Planning law is sophisticated, words have consequences, so be careful about how far you amend this bill because you risk diluting the purpose of the reform and the capacity to get a lift for New South Wales.

The Labor Party should take those warnings seriously. The Property Council also put out a press release to confirm that what it said on radio was substantially considered. The press release states:

> The threat of wholesale amendments to the State's new planning laws should be resisted …
>
> The NSW Opposition has signalled it will oppose the bill in its current form and seek to make "heavy" amendments to the bill:
>
> "We shouldn't sacrifice a substantial micro-economic reform through continuous concessions," NSW Executive Director Glenn Byres said today.
>
> "The legislation was already softened when ultimatums from local government saw the application of code assessment stripped back.
>
> "The prospect of a further round of heavy amendments risks compromising the goal of a simple, efficient and transparent system.
>
> "We want clear rules applied objectively that will assist investors, councils and the community all understand why and how decisions are made.
>
> "Endless tinkering will only produce a more complex and incoherent system.

The following little comment should be particularly noted by members opposite:

> "The property and construction industry generates one in 10 jobs in NSW and pays over $18 billion in wages to workers and their families.
>
> "Treating the industry as a political plaything only damages confidence and investment."

Members opposite have a lot to recognise in the messages that are being sent today. They must act and respond in a way that ensures the people of New South Wales have the opportunity to have a twenty-first century, modern, streamlined planning system. I seek leave to table the media release from the Property Council.

Leave granted.

Document tabled.

The Sydney Business Chamber also issued a press release today, which reads:

> "It is essential to the future of the NSW economy that the proposed new planning system is passed by the Parliament and becomes law," said Patricia Forsythe, Executive Director of the Sydney Business Chamber.
>
> "We all know that the existing planning system is broken, it must be fixed and the current legislation before the Parliament is the way to do it ...

In a telling final paragraph, which the members who seem to lack intellectual clout on planning should note, the press release says:

> "The NSW Government was elected on a mandate to reform the system, it has undertaken extensive consultation to reach this point and no one in the Parliament has a mandate to stop the reform."

I seek leave to table the press release.

Leave granted.

Document tabled.

Mr Richard Amery: If you've got a letter from Piers Akerman we're going to reject it.

Mr BRAD HAZZARD: I heard the member for Mount Druitt ask whether I have a letter from the Heritage Council. I certainly do. We have the capacity to say that anybody the member for Mount Druitt wishes to

name has taken an interest in this issue because we have discussed it with everyone. Since many members opposite made comments about heritage, I point out that I have a letter dated 29 October 2013 from the Heritage Council of New South Wales. I remind members that we have had letters from the Independent Commission Against Corruption, Local Government NSW and the Planning Institute of Australia. We have received letters from almost everybody except the Labor Party. The Heritage Council says in a small but important part of its letter:

> As you would be aware, the Heritage Council of New South Wales has been closely engaged in the planning reform process having made several submissions to DoPI outlining its concerns about certain aspects of the reforms that were released for comment. The Heritage Council is pleased that many of these concerns have been resolved. Nevertheless, it is vital for us to continue to work together with your department on the implementation of the details of the new system to ensure that changes made to the Bill do deliver the best heritage outcomes and do not result in unintended consequences.

The Heritage Council also summarises its feedback on the new bill:

- we welcome the new evidence-based strategic planning system and are encouraged by the promise it holds for protecting places of heritage significance;
- we note that Regional Growth plans and Sub-regional Delivery Plans will take account of World Heritage and State Heritage Register listed heritage items;
- we note locally listed items and/or heritage conservation areas (hcas) will be identified as part of the strategic planning process;
- while we must ensure that LEPs and Local Plans include the most up-to-date listings of heritage items and hcas, we recognise the importance of now positioning the current s.117 direction requiring planning authorities to consider and have regard to heritage matters within the NSW Planning Policy for Environment and Heritage;
- we are pleased that it is proposed that Development Applications for SHR listed places will continue to be merit assessed and not be subject to code assessment;
- we note that the Bill preserves the current Standard Instrument for merit assessment, including the compulsory provisions for heritage conservation provisions;
- While the Council argued for merit assessment of all heritage, we understand that local councils will have discretion to require code assessment. However we understand that government will not ask for broad scale codes for hcas and heritage items as a matter of course. Also there will be mandatory community participation prior to approving codes. Therefore, to mitigate any adverse heritage impacts your department will work with the Heritage Council on developing assessment principles for code precincts, which could include exclusion of some items and areas, siting and design controls to protect adjoining items, and requirements for reports and assessments to be undertaken by suitably qualified heritage experts. Clearly it will be critical to work closely on the principles and regulations, but this is a good opportunity for the Heritage Council to take a lead in the development of this strategic approach.

In other words, contrary to everything said by members of the Labor Party about heritage in this debate, the Heritage Council understands this. It has worked with us and we have addressed its concerns. Whether it is the Independent Commission Against Corruption, the Planning Institute of Australia, Local Government NSW or the industry that provides the homes and jobs that we need, there is nobody in the professional or representative community that opposes this bill except those who have a political Greens agenda—not a green agenda. Labor has been sucked into the political Greens agenda. It said it would not be, it said it was separating from The Greens agenda, but the fact that Labor members have stood in this place and attacked the work that has been done proves yet again that they are in the pockets of their Greens brethren. I distinguish between those members who have environmental and heritage concerns, because we back them 100 per cent. We are with them all the way on that, but it is a different issue.

Mr Ron Hoenig: In the Bohemian Grove.

Mr BRAD HAZZARD: The member for Heffron can stir about the Bohemian Grove and have a go at the seats that he had a go at, but—nice fellow that he is—as mayor his council had the longest development application approval period of almost any council in the State. I do not think that he is in a position to give us the benefit of his wisdom.

ACTING-SPEAKER (Mr Gareth Ward): Order! The Minister will cease inciting Opposition members. I call the member for Dubbo to order for the first time. I call the member for Mount Druitt to order for the first time.

Mr BRAD HAZZARD: Because the member for Heffron probably needs to see it in black and white, I seek leave to table the Heritage Council letter.

Leave granted.

Document tabled.

I acknowledge that the member for Cessnock and the member for Keira said balanced things during debate last night. We understand that they had to be part of their Labor team in unfortunately being involved in superficial criticism; however, they acknowledged that a great deal of work must have gone into this bill. I acknowledge that too. I worked for 2½ years with the broad range of community groups who came forward at each of the hundreds of meetings we held across the State. I have also worked with professional groups including the Planning Institute of Australia, the Urban Development Institute of Australia, the Government Architect and New South Wales architects. In addition, I have worked with various environment groups. I acknowledge and thank the Total Environment Centre and the Nature Conservation Council for their involvement over the past 2½ years, although I do not thank them for the political position they have now put themselves in with The Greens. I thank all of those professional groups.

I also thank Chris Johnson from the Urban Taskforce, who is a former government architect and who has been out there correctly putting the position, from the point of view of balance, that this State needs a new planning system. Each of those participants contributed a sense of balance and perspective. There has not been one meeting or forum at which we as a government have not had in the same room those who build houses, those who develop land, and those who seek to protect our biodiversity and environment. They would all be happy to acknowledge that the Government has had them in the same room from the word go so that we formulated a balanced bill and balanced legislation for the people of New South Wales. No-one in that environment could adopt a particularly narrow perspective; they were forced not to. I know there is some carping criticism from the sidelines at the moment, but that is from a particular group which has excluded itself from much of the consultation and which has been heavily involved with The Greens. Recently I saw one of the leaders of that group working in The Greens parliamentary office. The criticism has been very much The Greens agenda that Labor has been sucked into.

Mr Ron Hoenig: No we haven't.

Mr BRAD HAZZARD: I hope that is the case, because if it is not it suggests very bad things about the Labor Party.

Mr Ron Hoenig: No we haven't, and you know that.

Mr BRAD HAZZARD: Yes, you have. Yes, you absolutely have.

ACTING-SPEAKER (Mr Gareth Ward): Order! I remind the member for Dubbo that he is on a call to order. I call the member for Heffron to order for the first time.

Mr BRAD HAZZARD: In addition to those professional groups, we have had an opportunity to see the very best of the New South Wales Department of Planning and Infrastructure staff, who have contributed enormously to this task. I do not care, and nobody in the Coalition cares, what their personal or political views are, but we do know that they have presented themselves in a very professional manner. They have given themselves completely to the task of bringing to the people of New South Wales a new strategic planning framework which puts people front and centre and which gives them the right to have a say at every level—from the moment planning is worked through, from the top through regional growth plans to the subregional delivery boards and plans, and down to the local plans. They have given themselves totally.

I place on the record my thanks to the director general, Sam Haddad, who has faithfully served both sides of politics as a proud civil servant. I also thank Marcus Ray, who is the head of legal services in the department, Eloise Murphy, Kirstie Allen, Leanne Copping, Lynne Sheridan, Martin Musgrave, Liz Lamb, Ramona Momdjian, Jonathan Schipp, Glenn Snow, Cheramie Marsden, Elizabeth Griffin, Sarah Kelly and many of the other members of staff in the department who have had an involvement in the preparation of this legislation over the past 2½ years. I am certain that many members of that staff have been involved in this process. I also know they all have a commitment to ensuring that this new planning system becomes a reality for the good of the people of New South Wales. There is no political agenda, but just an honest belief in the substance of what is necessary for planning in New South Wales.

I also thank my ministerial office staff, all of whom have been closely involved in this process. I do not intend to name all of them, but I do intend to name Tim Robertson and Leah Schramm, who led the charge to

work with the community and the department as well as interest groups to present a modern and streamlined planning system that will take New South Wales forward—a planning system that puts the community front and centre from beginning to end. I remind members that this planning system has been devised from a world perspective. New South Wales will have the world's best planning system. New South Wales has looked around the world and seen the best there is to offer. We have seen what they do with planning in Vancouver, British Columbia, in Portland, Oregon, in Seattle, Washington and in Denmark, particularly around e-planning. The New South Wales Government has presented bills to the House that reflect the very best.

If these bills pass—as they should—the Liberal-Nationals Government will have given New South Wales a gift that will last for decades. That is a gift of honesty, integrity and decency in the planning system and a gift that ensures the community will have a say at every level of planning. No matter which of the 152 local council areas a person might live in across the State, each of the different councils, as consent authorities, will work with that person in one form or another—as reflected in what that person's community has asked the council to do and requires the council to do—and that person will get the best possible outcome. It will be strategic planning at its best for the first time in this State. I commend the bills to the House.

Question—That these bills be now read a second time—put.

The House divided.

[*In division*]

ACTING-SPEAKER (Mr Gareth Ward): Order! I call the member for Monaro to order for the first time. The member for Drummoyne and the member for Cessnock will come to order. I warn the member for Drummoyne that he will be removed from the Chamber if he continues to behave in an unparliamentary manner. Members who wish to have private conversations will do so outside the Chamber.

Ayes, 64

Mr Anderson	Mr George	Mr Provest
Mr Aplin	Ms Gibbons	Mr Roberts
Mr Ayres	Ms Goward	Mr Rohan
Mr Baird	Mr Grant	Mr Rowell
Mr Barilaro	Mr Gulaptis	Mrs Sage
Mr Bassett	Mr Hartcher	Mr Sidoti
Mr Baumann	Mr Hazzard	Mrs Skinner
Mr Bromhead	Ms Hodgkinson	Mr Smith
Mr Brookes	Mr Holstein	Mr Souris
Mr Casuscelli	Mr Humphries	Mr Speakman
Mr Conolly	Mr Issa	Mr Spence
Mr Constance	Dr Lee	Mr Stokes
Mr Cornwell	Mr Marshall	Mr Stoner
Mr Coure	Mr Notley-Smith	Mr Toole
Mrs Davies	Mr O'Dea	Ms Upton
Mr Dominello	Mr Owen	Mr Webber
Mr Doyle	Mr Page	Mr R. C. Williams
Mr Edwards	Ms Parker	Mrs Williams
Mr Evans	Mr Patterson	
Mr Flowers	Mr Perrottet	*Tellers,*
Mr Fraser	Mr Piccoli	Mr Maguire
Mr Gee	Mr Piper	Mr J. D. Williams

Noes, 23

Mr Barr	Mr Hoenig	Mr Rees
Ms Burney	Ms Hornery	Mr Robertson
Ms Burton	Mr Lynch	Ms Tebbutt
Mr Collier	Dr McDonald	Ms Watson
Mr Daley	Ms Mihailuk	Mr Zangari
Mr Furolo	Mr Park	*Tellers,*
Mr Greenwich	Mr Parker	Mr Amery
Ms Hay	Mrs Perry	Mr Lalich

Question resolved in the affirmative.

Motion agreed to.

Bills read a second time.

Third Reading

Motion by Mr Brad Hazzard agreed to:

That these bills be now read a third time.

Bills read a third time and transmitted to the Legislative Council with a message seeking its concurrence in the bills.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Bills

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [12.42 p.m.]: I move:

That standing and sessional orders be suspended to permit the passage through all stages, at this or any subsequent sitting, of the Coal Mine Health and Safety Amendment (Validation) Bill 2013.

I have indicated to members that some important legislation must be dealt with this week. One of those bills is ready to proceed. It is critical that it proceeds because it relates to workplace health and safety issues in coalmines. I will move that it be dealt with through all stages as soon as practicable because the Government wants it to be dealt with today.

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

Motion agreed to.

COAL MINE HEALTH AND SAFETY AMENDMENT (VALIDATION) BILL 2013

Bill introduced on motion by Mr Chris Hartcher, read a first time and printed.

Second Reading

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [12.43 p.m.]: I move:

That this bill be now read a second time.

The Coal Mine Health and Safety Amendment (Validation) Bill 2013 confirms that certain appointments made under the Coal Mine Health and Safety Act 2002 are valid. In doing so, it will ensure that the clear intent of the Act is implemented. The Coal Mine Health and Safety Act 2002 is an important part of the work health and safety laws that regulate health, safety and the welfare of employees at coal operations and related workplaces. The bill provides for a significant safety compliance and enforcement regime and for the appointment of government officials to undertake certain roles. These officials include inspectors, mine safety officers, the chief inspector and investigators.

For all the talk of the mining boom being over, New South Wales still has a substantial coalmining industry. The industry employs thousands of people regionally, contributes well over $1 billion each year in royalties to the State, and contributes to local infrastructure in many different ways. Tragically, it is also an industry in which injury and death still occur. We can be thankful that there are not as many of these events as there were in the past. While this change is due in part to industry changing its approach to safety management, it is also due to the tireless work of the inspectorate and mine safety officers. I emphasise that the bill does not change any of the legislative provisions relating to these officials. Its intent is simply to remove any uncertainty about the appointment of certain government officials under the Act.

In 2006, the then deputy director general of Mineral Resources appointed the chief inspector and a number of other inspectors and investigators under the Act, under delegation. As there may be some irregularity

with the instrument of delegation, those appointments are now being retrospectively validated. This is to provide certainty that, to the extent any approvals, orders or directions were issued or other actions were initiated by the chief inspector and the other statutory positions in reliance on this appointment, those approvals, orders, directions or any other actions are valid. Importantly, it also means that any compliance and enforcement actions can continue without question. The bill also addresses the 2012 instrument of appointment. That instrument was designed to ensure certainty for the appointments made in 2006. However, it appears that, in addition to reappointing the 2006 government officials, this instrument inadvertently revoked all previous appointments. This bill will make certain that the unintended effect of the 2012 instrument is given its correct effect; that is, to confirm the appointment of all the government officials under the Act.

The Government is firmly committed to the elimination of deaths and injuries in coalmining and related workplaces. The bill gives certainty to key players in reaching this goal. It does this by making certain that there are no technical hindrances to their appointments. It gives certainty to government, to those working in the coalmining industry and, importantly, to their families. I commend the Coal Mine Health and Safety Amendment (Validation) Bill 2013 to the House.

Mr PAUL LYNCH (Liverpool) [12.47 p.m.]: I lead for the Opposition on the Coal Mine Health and Safety Amendment (Validation) Bill 2013 in this place. The shadow Minister with the carriage of the bill is the Hon. Steve Whan in the other place. He will have some substantive comments to make about the bill. The objects of the bill are to validate previous appointments of the chief inspector, inspectors, mine safety officers and investigators under the Coalmine Health and Safety Act 2002, to save appointments of officers under that Act that were inadvertently revoked, and to validate things done or admitted by those officers and things done in reliance on or as a consequence of such things.

The Opposition has accepted the legitimacy of the Government's claim to have the matter dealt with a degree of urgency and therefore did not oppose the suspension of standing orders. However, we would like to examine the bill in more detail before we express substantive views on it. Those substantive views will be expressed by the shadow Minister in the other place. We do not oppose the bill here but reserve our right to think about it a bit longer.

Mr ANDREW CORNWELL (Charlestown) [12.49 p.m.]: I support the Coal Mine Health and Safety Amendment (Validation) Bill 2013. Government officials are not often thanked on the public record and it is time that was corrected. It is important that we acknowledge the work of safety inspectors in coalmining—an industry that has risks and hazards. An inspector of coal mines must have a nationally recognised mining engineering qualification from a university or a registered training organisation. Inspectors must also have demonstrated competence and experience in coalmining operations before they can be appointed. Most inspectors have spent many years in the industry and bring their invaluable experience and technical understanding to their important role. Other electrical, mechanical and mine subsidence engineering specialists make a significant contribution to the promotion and enforcement of coalmine safety. All of these inspectors have a very wide brief of powers and functions intended to protect workers and other persons from harm to their health, safety and welfare. This is to be achieved by ensuring that work and workplace risks are eliminated or, at the very least, minimised. But inspectors also must investigate contraventions of the Act, and must assist in the prosecution of offences.

Among the more demanding aspects of their work, they may take witness statements and give evidence at coronial inquests when, tragically, there has been a work-related death. Inspectors also respond to and investigate any catastrophic, serious or notifiable incidents. In 2011-12, inspectors received a total of 2,922 incident notifications from across all industry sectors, of which 2,615 were from the coal sector. In contrast, their functions are intended also to provide for fair and effective workplace representation, consultation, cooperation, and health and safety issue resolution. Further, inspectors work proactively to encourage unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices. Another proactive role is to promote mine health and safety advice, and information, education and training. For instance, each year, hundreds of the industry's electrical and mechanical engineers attend safety seminars run by the inspectors.

Yet another proactive aspect of their work is a planned annual program of safety assessments for mines which targets areas that need improvement and which is intended to systematically assess and improve compliance. However, the emphasis is to educate and improve rather than to take enforcement action. Electrical inspectors are in the middle of implementing a major program to improve electrical safety on mine sites, and 230 sites have been audited and provided with feedback on potential improvement areas. Follow-up reviews, assistance and guidance

are being provided where necessary. This year the Electrical Hazard Awareness training program is being rolled out across the State and will contribute directly to improved electrical safety—just one more example of safety initiatives being implemented by our proactive mine safety inspectors. I commend the bill to the House.

The DEPUTY-SPEAKER (Mr Thomas George): Order! If members wish to have a conversation they should do so outside the Chamber.

Mr CLAYTON BARR (Cessnock) [12.52 p.m.]: The Opposition takes in good faith that the Coal Mine Health and Safety Amendment (Validation) Bill is simply an incidental exercise. Of course, it will be carefully read by the Hon. Steve Whan, this industry's shadow Minister in the upper House. I note that the United Mineworkers Federation Northern District memorial is in my electorate of Cessnock. Each year the service at the Jim Comerford Memorial Wall commemorates the 1,795 mine workers who have lost their lives in northern districts coalmines since 1801, the youngest of whom was 11-year-old Robert Irving and the oldest, 73-year-old Frederick Charles Roose. Of the many services I attend, I find the miners' memorial service and Anzac Day services the most moving. Families who have lost loved ones from five to 55 years ago continue to attend and shed tears as they place flowers at the memorial. Mine inspectors are important in ensuring the safety of the coalmining workforce. In such a dangerous industry a simple mistake can cost a life. The Opposition is happy to support the bill in the understanding that it ensures mine safety.

Mr GARRY EDWARDS (Swansea) [12.53 p.m.]: I support the Coal Mine Health and Safety (Validation) Bill 2013. This bill is particularly important to me because many of my constituents and, indeed, quite a few of my friends are employed in the mining sector. The Government set a goal of no deaths or serious injuries in the mining sector. The contribution of mine safety inspectors in working towards that goal is very clear from improving safety statistics. The annual NSW Mine Safety Performance Report helps us understand the effectiveness of inspectors. Most of the safety data shows positive improvement. I will provide a few examples to support my point. The mining industry fatality rate continues on a downward trend although, sadly, there were two fatalities in 2012-13. No fatalities were reported across the industry in 2011-12. By contrast, it is worth noting that in the 10-year period ending December 2003 the average number of fatalities was 2.4 per year.

An area requiring more improvement is the incidence of serious bodily injuries in the coalmining sector. In 2011-12 the number increased to 36 from 28 the previous year. However, the overall 2011-12 figures for lost-time and serious bodily injuries show that the five-year average frequency rate continued the downward trend of the past decade. A further measure of inspectorate effectiveness is borne out by the results of the National OHS Strategy 2002-2012. The national strategy set 10-year targets requiring industry to reduce work-related deaths by at least 20 per cent and injuries by at least 40 per cent. The New South Wales mining industry exceeded the targets and achieved reductions of 89.5 per cent for work-related deaths, 76.4 per cent for lost-time injuries and 67.6 per cent for serious bodily injuries.

We can see that there is more room for improvement to reach the Government's goal of no fatalities and/or serious injuries. At the same time, the record shows that safety statistics continue to improve markedly. These improved statistics mean that many more mining industry employees return home safely to their families. Clearly, the strategic actions of inspectors to improve safety, combined with enforcement and compliance actions, will keep contributing to achieving the Government's mine safety goals. In this regard it is appropriate once again to acknowledge the role of mine safety inspectors. I commend the bill to the House.

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [12.56 p.m.], in reply: I thank the House for its indulgence in suspending standing orders to allow debate on this bill to proceed. I thank the members representing the electorates of Liverpool, Cessnock, Charlestown and Swansea for their spirited contributions and interest in the New South Wales mining industry. I acknowledge once again that this bill simply validates appointments that may have been made in error under delegated powers in 2006 and thus ensures the efficient operation of the mining inspectorate system. New South Wales has an enviable record in mine safety. Tragically, deaths have occurred in recent years. However, compared to almost every other jurisdiction, we are a world leader in mine safety. That is a tribute to mine management, government regulation, the work of the Construction, Forestry, Mining and Energy Union, and the national psyche and culture that genuinely puts safety first in all areas.

I comment briefly on the remarks of the member for Cessnock. I said in my speech to the mining industry last Thursday that inscribed on the memorial to which the member for Cessnock referred is a quotation from St Paul's Letter to the Hebrews:

> He being dead yet speaketh.

The purpose of St Paul's words is to remind us that the dead have a message for the living. The message on the mining memorial wall tells the living that the dead have made a contribution, just as the Anzacs did at Gallipoli, and that there is always a lesson to be learnt—"not just that we gave our lives" to be honoured and commemorated. The mining industry will continue to be successful only if it ensures the safety and protection of those engaged in it. The past always has a message for the present, as commemorated on that memorial, which is why hundreds of people meet each year, as the member for Cessnock said, to commemorate those who have fallen in the mining industry. It reminds us all that the message of mine safety and respect for individual industry workers must be maintained and ever protected. The purpose of the bill is to ensure that we continue to have an efficient and effective inspectorate that will conduct inspections on a productive basis. Approximately 2,700 inspections in the industry occurred last year to ensure smooth and efficient operations in the interests of the community and, above all, in the interests of the safety of workers who are employed in the industry. I thank the members who have contributed to the bill and I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Mr Chris Hartcher agreed to:

That this bill be now read a third time.

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

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT BILL 2013

Second Reading

Debate resumed from 23 October 2013.

Mr PAUL LYNCH (Liverpool) [1.01 p.m.]: I lead for the Opposition on the Crimes (Domestic and Personal Violence) Amendment Bill 2013. The Opposition does not oppose the bill. The bill's objectives are:

(a) to enable police officers of or above the rank of sergeant to issue provisional apprehended domestic violence orders, and

(b) to expand the powers of police officers to give directions to persons in connection with the application for, and service on them of, provisional apprehended domestic violence orders, and

(c) to enable police officers to detain persons while transporting them to a police station for the purpose of applying for, and serving on them, provisional apprehended domestic violence orders, and

(d) to impose requirements in relation to the treatment of persons so detained and the keeping of records by officers of any such detention, and

(e) to provide that it is an offence to make a false or misleading statement for the purpose of making an application for an apprehended personal violence order, and

(f) to provide that an application for review of a Registrar's decision to refuse to accept an application notice for filing may be determined by a Magistrate, rather than the court, and

(g) to provide for the referral to mediation of parties to interim apprehended personal violence orders, and

(h) to require a court to refer parties to an apprehended personal violence order (or an interim apprehended personal violence order) to mediation unless it is satisfied that there is good reason not to do so.

The bill's origins are found in two reports that reflect the fact that there are two very distinct parts of this bill. The first is a report of the Legislative Council Standing Committee on Social Issues in 2012 entitled, "Domestic violence trends and issues in NSW". The second is a report of the Department of Attorney General and Justice entitled, "Interim review of frivolous and vexatious apprehended personal violence orders". That report should be set in the context of a broader statutory review of the Crimes (Domestic and Personal Violence) Act. The

report of the Standing Committee on Social Issues was unanimous in its recommendations. The committee did a good job and its report has been well received. I have benefitted from discussions on the report with the Hon. Helen Westwood and the Hon. Greg Donnelly. Recommendation 54 of that report, in part, states:

> That the NSW Government seek to amend the *Crimes (Domestic Violence and Personal Violence) Act 2007* to permit NSW police officers of or above the rank of sergeant to issue interim domestic violence orders.

Recommendation 56 states:

> That the NSW Government seek to amend the *Crimes (Domestic Violence and Personal Violence) Act 2007* to provide police with a limited power both in time and circumstance to detain an individual for the service of an interim apprehended domestic violence order.

The bill generally follows these recommendations. Other models were proposed to the committee, but the one recommended by the committee and adopted in this bill seems to be the most appropriate of those proposed. The committee took considerable evidence about the apprehended violence order system. Many thousands of such orders are issued every year. The committee particularly pointed towards the example of the Victorian model, which has generally been assessed positively. The report stated:

> We recognise that the current system of court issued AVOs can result in delay for victims in need of protection where ADVO applications are made outside business hours and consider that this should be addressed.

The committee endorsed the Victorian model, stating:

> This will ensure the expedited protection of the victim and reduce or eliminate police time spent locating the respondent to serve the order. Again, this accords with our recommendation that the system responding to domestic violence should be focused on the outcomes of safety and freedom from violence for victims and children.

The committee endorsed a limited power for police to issue orders, subject to appropriate safeguards. These recommendations are also echoed in other places, including in the policy proposed by the Australian Labor Party Safe Families Policy Commission. The system currently requires the police to apply for a provisional apprehended violence order. In practice, that means they often leave the scene and return to serve the appropriate documentation, which allows an opportunity for the alleged defendant to leave and evade service. This bill aims to avoid that difficulty. Police officers of the rank of sergeant and above can issue the orders, although not in circumstances where that officer is also the applicant. The regime of telephone applications is retained. These orders are interim orders and must be listed in court. There are also provisions for variation and revocation.

The proposed legislation also allows for the defendant to be detained in order to allow an interim order to be made and served upon them. The police also have the power to give a range of directions to the defendant and the detention power can be used if directions are not complied with. The directions can include that the defendant accompanies a police officer to a police station and remains there. New section 89A (4) sets out the issues that the police officer may take into account when determining whether to detain the defendant. New section 90 (2) provides that detention is for the purpose only of serving the order or variation on the person. New section 90A sets an upper limit of two hours that a person can be detained. New section 90B sets out a series of limitations concerning the conditions under which a person may be detained. There is a limited search power under new section 90C.

Schedule 2 to the bill deals with apprehended personal violence orders. The Opposition does not oppose this portion of the bill but it notes the curious way in which these provisions have come before the House. As I indicated earlier, they arise from a departmental review. That review makes it abundantly clear that the recommendations are made in response to claims that there are a significant and increasing number of false and vexatious claims. These claims in the report by the department were sourced to Coalition members of Parliament and tabloid news media outlets. None of this relied upon any empirical evidence. In plain language, that means there was no evidence that there was a plethora of false and vexatious personal violence applications.

It is just as likely that the claims were a complete fallacy or, alternatively, a media beat-up, nourished and exploited by conservative politicians with more interest in publicity than the proper administration of justice. Into this potpourri someone at some stage suggested the unthinkable. In 2011, the Bureau of Crime Statistics and Research decided to conduct objective research. The Bureau of Crime Statistics and Research findings are contained in a *Crime and Justice* bulletin, dated May 2012. Their findings are conveniently set out on pages 6, 7 and 8 of the department's interim report, some of which are:

- Despite some variation in the annual APVO rate between 2001 and 2011, over the entire period there was no statistically significant upward or downward trend in the monthly number of APVOs granted.

- Of the respondents who dealt with APVOs in the previous 12 months, two-thirds reported that they never, rarely or only occasionally dealt with frivolous or vexatious APVOs.
- Only one in ten respondents reported that they frequently dealt with such matters. When frivolous or vexatious APVO matters do arise, respondents reported that they involve trivial/insignificant matters or a single act of harassment, and that the dispute is most often between neighbours or acquaintances/former friends.

Clearly, the Bureau of Crime Statistics and Research shows that false and vexatious apprehended personal violence orders were nowhere near as common as some commentators suggested. However, for more abundant caution, the review recommended a number of amendments to the Act, which are unobjectionable. Provisions in the Act that reflect the recommendations of the review include:

1. A presumption in favour of referral to mediation unless there is good reason not to.
2. The existence of one or more of the factors in section 21 (2) does not prevent a referral to mediation.
3. Section 21 is applied to interim orders.
4. A registrar's refusal to issue an application may be determined by a magistrate in chambers rather than in court.

One recommendation in the report not adopted in the Act relates to section 7 and a definition of "harassment". I ask the Attorney in his reply to explain why he has elected not to proceed with this proposal in the department's recommendation. The bill introduces a specific offence dealing with false or misleading applications. In line with the report's recommendations, the proposed penalty is 12 months imprisonment or 10 penalty units. It is interesting that the Government is introducing a new offence to criminalise people telling lies when it abjectly failed to prosecute one of its own—the former member for Clarence—when he openly admitted to swearing false statutory declarations. The Opposition does not oppose the bill.

Ms PRU GOWARD (Goulburn—Minister for Family and Community Services, and Minister for Women) [1.08 p.m.]: The protections for the issue of provisional apprehended domestic violence orders by police are a serious matter. The Crimes (Domestic and Personal Violence) Amendment Bill 2013 amends the Act to allow senior police officers of the rank of sergeant or above to make provisional apprehended domestic violence orders. This was a recommendation of the New South Wales Legislative Council Standing Committee on Social Issues in 2012. I am pleased that the Opposition has acknowledged the contribution of that committee. Currently, the provisions require a police officer to apply to an authorised officer for a provisional order. This means that police must return to the police station in order to make the application. This can involve hours, if not days, of additional waiting time and in that interim period risk remains for the victim and the family.

Every year approximately 26,000 applications for apprehended domestic violence orders are made. Approximately 80 per cent of police applications made to authorised officers for apprehended domestic violence orders are made outside of court hours—namely, between the hours of 4.00 p.m. and 9.00 a.m. Approximately 94 per cent of all police applications are granted by the authorised officer. That is indicative of the enormous amount of additional work between the hours of 4.00 p.m. and 9.00 p.m. It might involve hours, if not days, of additional waiting time, and in the end 94 per cent of all police applications are granted by the authorised officer.

These amendments are an important step in the implementation of the Government's Domestic Violence Justice Strategy and will improve the immediate safety of domestic violence victims and their children. These proposals are part of a package of reforms to ensure that police can issue and serve the order immediately and thus make sure that the order is immediately enforceable. A number of protections are in place for defendants to a police-issued order. The proposals will ensure that the order can be reviewed by a court. Further, the order will be provisional and the hearing for a final order will be listed no later than 28 days after the date on which the order was made.

The bill amends the Act to expand the powers of police in relation to serving provisional apprehended domestic violence orders. It includes a power to direct or detain a person for the purpose of making and serving provisional apprehended domestic violence orders. This expansion gives police the flexibility to respond to each individual case. Where an incident occurs at the home of a victim, these powers will enable the police to direct a person away from the scene. Importantly, that allows victims and their children to remain safely in their homes. In the end the purpose of all domestic violence reforms is to ensure that victims and children can remain safely in their homes. The scheme reduces the risk of the defendant leaving a place before an order can be served. It will mean that these orders can be immediately enforceable and, as I have said, will reduce hours, if not days, of additional police effort.

The bill inserts a number of safeguards in relation to these new police powers, including time limits on how long a person can be directed to remain at a place or be detained, as well as providing for the treatment of

persons so detained as far as reasonably practicable. The bill also provides a number of other amendments related to apprehended personal violence orders. Schedule 2 implements the recommendations made by the recent interim review of frivolous and vexatious apprehended personal violence orders. The review found that while frivolous and vexatious applications are not frequent, it is appropriate to discourage such applications and encourage the quick resolution of appropriately initiated matters.

The bill creates a presumption in favour of mediation, which applies when a court is considering making an interim or final apprehended personal violence order, and gives magistrates greater flexibility to refer matters to mediation. The bill introduces an offence of knowingly making a false or misleading statement in an application for an apprehended personal violence order. The offence will carry a maximum penalty of 12 months imprisonment or 10 penalty units, or both. A magistrate will be able to review a registrar's decision to refuse to accept an application notice for filing in chambers rather than in a full court hearing. The provision is designed to encourage registrars to exercise their discretion to refuse an application notice in appropriate circumstances.

False and vexatious applications for personal violence orders should be discouraged. These amendments will deter people from making applications on false grounds and ensure that only appropriate matters are brought before the court for final determination. I welcome the Opposition's support for this bill but I note that the speed and quiet nature of the response of the Opposition's spokesperson is inversely related to the Opposition's interest in the bill. These reforms are part of the broader approach that needs to be taken in this area. These reforms were developed in close consultation with more than 300 sector workers who support people facing the immediate dangers and long-lasting effects of domestic and family violence.

Following Cabinet approval in June 2013, public comment on the proposed domestic and family violence reforms was sought. Over 200 responses were received via the New South Wales Government "Have Your Say" website. The Department of Family and Community Services is leading the whole-of-government reform to reduce domestic and family violence, in close collaboration with the Justice Cluster of the Department of Attorney General and Justice to deliver particular elements of the reforms. Breaking down disadvantage within our communities is a key priority for this Government. One of the many issues we are tackling is reducing domestic and family violence. A New South Wales parliamentary inquiry and the Auditor-General were highly critical of the previous Government's response. It was identified that if services do not work together the safety of victims will be compromised and an ongoing pattern of domestic and family violence will result.

The Auditor-General estimated that domestic and family violence costs the New South Wales economy more than $4.5 billion every year. That reflects the extreme complexity of the response that was required and the terrible personal loss of victims of domestic violence. These reforms will enable us to better identify and support people who face a serious threat to their safety. They will also enable workers across various government and non-government agencies to work in a more cohesive manner to respond and protect those people whose safety is at risk. Domestic and family violence is a complex issue that cannot be fixed overnight. This Government has set the way forward to provide a firm foundation to make an impact in protecting the safety of our communities, in particular, our vulnerable children and young people.

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

COMMUNITY RECOGNITION STATEMENTS

MOUNT HUNTER JUNIOR RURAL FIRE BRIGADE MEMBER GABBY DALTON

Mr JAI ROWELL (Wollondilly) [1.15 p.m.]: Over the past couple of weeks Wollondilly has been devastated by bushfire—approximately 15,500 hectares of land has been burnt. I offer my deepest thanks to all who assisted in those fires; I will have more to say about that in this House tomorrow. Gabby Dalton, a junior rural fire brigade member at Mount Hunter, has particularly impressed me. Gabby took the time to write a poem called "Fire Fighters" which I would like to share with the House:

Relaxing at home
The volunteer's pagers
Alert them it's time to face the dangers
From hat to helmet
And thongs to boots
The Fire fighters are ready, in their yellow suits
Forming the crew down at the station
Jump in the truck
And get to the location

This poem proves that it is not only the older people who have thought about the fires at Wollondilly but also the young people, who have assisted and volunteered their time. Gabby Dalton has done a fantastic job.

HUNTER TOUCH FOOTBALL

Ms SONIA HORNERY (Wallsend) [1.16 p.m.]: I congratulate the Beresfield Bandits and the Wallsend Wolves on their triumphs last weekend at the Hunter Western Hornets Regional Championships. The Wallsend Wolves finished on top of the men's 30s and men's 40s podiums, beating Central Coast 6-5 and Newcastle City 6-2 respectively, as well as winning an intra-club decider in the women's opens with the blue side beating the maroon side 6-3. The Beresfield Bandits also excelled themselves by making the men's 20s semifinals. The success of Hunter touch football is due to the hard work of these two dedicated local groups. I applaud the achievements of the Beresfield Bandits and the Wallsend Wolves.

DEATH OF SIR WILLIAM TYREE

Mr CRAIG BAUMANN (Port Stephens—Parliamentary Secretary) [1.17 p.m.]: I advise the House that Sir William Tyree, engineer and philanthropist, died peacefully at his home on Friday 25 October. He was born in Auckland and his 92 years were filled with boundless energy, happiness and amazing contributions to Australian engineering, science, industry, research, education and humanity. This unique and much-loved Australian was predeceased by his wife, Lady Joyce Tyree, and is survived by three children and their spouses, 12 grandchildren and 12½ great-grandchildren. Bill had been a Fellow of the Australian Academy of Technological Sciences and Engineering since 1988. He was awarded the academy's Clunies Ross Lifetime Achievement Award in 2012. The national and international honours he received for his contribution to the engineering industry include a knighthood in 1975. He was also one of Australia's leading philanthropists and a tireless supporter of education. I was privileged to be present when Bill opened the Tyree Energy Technologies Building at the University of New South Wales last August. Vale Sir William Tyree

MONSIGNOR BRIAN RAYNER, OAM

Mr BARRY COLLIER (Miranda) [1.18 p.m.]: I ask the House to acknowledge the work and service of Monsignor Brian Rayner, OAM, parish priest of St Catherine Labouré, Gymea, since 2005. Sunday 20 October marked the fortieth anniversary of Monsignor Rayner's ordination to the priesthood. My wife, Jeanette, and I were among the hundreds attending the two special celebratory masses held over that weekend. As parish priest, Monsignor Rayner's pastoral care, compassion and support for those in need are second to none. Under his outstanding leadership, the parish has sent 106 shipping containers full of tinned food, clothing, furniture, toys, books and tools to the poor of Fiji.

Monsignor Rayner previously served as principal chaplain and episcopal vicar with the Royal Australian Navy. During his 20 years as chaplain, the Monsignor saw service in Iraq and Afghanistan, receiving his Medal of the Order of Australia for meritorious service to the Royal Australian Navy. He takes great interest in the shire and we are truly blessed to have him as our parish priest. I know my parliamentary colleagues will join me in thanking Monsignor Rayner on the anniversary of his ordination for his service to his parish, to our community, to our nation and beyond.

MANNING MODEL AERO CLUB PRESIDENT DEAN ERBY

Mr STEPHEN BROMHEAD (Myall Lakes) [1.19 p.m.]: I inform the House that Dean Erby from Taree recently won three championships representing the Manning Model Aero Club. He first won the National Championship for Pattern Aerobatic models. Dean then won the pattern aerobatic competition at Wingham in the advanced class. The third win for Dean came in the New South Wales Large Scale Championships, which were conducted by the Manning Model Aero Club. Dean won the advanced class, which included winning the most points for the best static model, a Sopwith Snipe, and the best flying model. To top off his achievements, Dean was also awarded the trophy for the outstanding local modeller at the Large Scale Championships. Dean is president of the Manning Model Aero Club.

MOUNTIES GROUP CLUBGRANTS PROGRAM

Mr GUY ZANGARI (Fairfield) [1.20 p.m.]: On Thursday 1 August 2013 the Mounties Group held its annual ClubGrants presentation night. The Mounties Group presented a total of $3.95 million in ClubGrants funding. The funding grants went towards vital community projects, such as programs to assist Vietnamese parents understand the Australian education system, programs on building a future without domestic family violence, workshops for seniors on preventing falls, cycling programs, reading programs for students, programs on maintaining health and welfare for veterans, programs on fresh food and healthy behaviours, homework and

study classes for students at risk, recreation and leisure activities for people with disabilities, women empowerment programs, fitness and community activities for people with cerebral palsy, programs promoting life skills and self-esteem, and neonatal programs. Congratulations to the 20 local services that were successful in receiving community grants from the Mounties Group in 2013. Congratulations to all.

INVERELL LINKING TOGETHER CENTRE

Mr ADAM MARSHALL (Northern Tablelands) [1.21 p.m.]: I commend the Inverell Linking Together Centre, which was this week presented with the Outstanding Project-Service Working with Aboriginal Young People Award, after being nominated under two categories at the NSW Youth Work Awards. The award recognises the centre for the outstanding outcomes it achieves through the services and programs it provides to the Indigenous youth of Inverell. The Linking Together Centre has over 10 years of experience working with disadvantaged community members, with approximately 85 per cent of the service's users identifying as Indigenous. The centre's existence and ongoing activities have been directly linked to a substantial reduction in antisocial behaviour and recidivism, with positive emotional growth in the youth and the development of a level of social cohesion in Inverell that would not otherwise exist. I congratulate the Linking Together Centre Coordinator Paul King, Community Officer Kerrie-Anne Dettmann, and the rest of the staff on their commitment and continuing efforts to make the program successful and relevant to the youth they deal with.

CHINESE ASSOCIATION OF WESTERN SYDNEY

Mr NICK LALICH (Cabramatta) [1.22 p.m.]: I advise the House that on 29 September 2013 I had the pleasure to attend the sixty-fourth anniversary of the founding of the People's Republic of China and Moon Festival celebrations at the Golden Star Palace Restaurant in my electorate of Cabramatta. Speakers on the night spoke about the great friendship and economic ties that have been forged between our two great countries, in particular since former Prime Minister Gough Whitlam recognised China and the open-door policy that China adopted some 35 years ago. The night was organised by the Chinese Association of Western Sydney, which is made up of some 32 Chinese organisations from within our area. I thank Mr Vincent Kong, Mr Pho Quang Hang and Mr James Chan and their organising committee for the wonderful function. Also attending on the night was Mr Liu Kan, Deputy Consul General of the People's Republic of China; the Hon. Chris Bowen, MP; Mr Chris Hayes, MP; and the Hon. Victor Dominello, Minister for Citizenship, Communities and Aboriginal Affairs.

TRIBUTE TO JAMES "JIMMY" SPITHILL

Mr ROB STOKES (Pittwater—Parliamentary Secretary) [1.23 p.m.]: It is with great pleasure that I draw the attention of the House to the remarkable achievements of Pittwater's global sailing luminary James "Jimmy" Spithill. Jimmy's success in skippering Oracle Team USA in its dramatic victory over New Zealand in this year's America's Cup will long be remembered as one of the greatest come-from-behind victories in world sport. Growing up on Pittwater's western foreshores and a proud alumnus of Pittwater High School and the Royal Prince Alfred Yacht Club, Jimmy's incredible skills, leadership and determination have rapidly advanced from local awareness to global eminence. Jimmy's achievements have not only brought great pride and delight to our community, and his very supportive family, but also helped raise the profile of competitive sailing around the world. He has provided unsurpassed inspiration for our next generation of junior sailors. Along with all members of this House, I wish Jimmy all the best for his continuing success and look forward to seeing him back at the helm of an Australian boat in the near future.

FIBRE OPTICS DESIGN AND CONSTRUCT

Mr RYAN PARK (Keira) [1.24 p.m.]: I congratulate Fibre Optics Design and Construct Pty Ltd on recently winning the Illawarra Business of the Year Award, as well as taking out the Excellence in Innovation and Excellence in Workplace Health and Safety categories of the Illawarra business awards. Michael McKeogh and his team have done an outstanding job. They are a local business based in Bulli who are not only employing people and growing their business but also assisting others and the broader community by contributing to economic prosperity. Fibre Optics Design and Construct deliver expert fibre optic design, installation, termination and testing services. The company has worked on such iconic projects as communication upgrades on the Sydney Harbour Bridge, fibre optics for Sydney's motorways and tunnels, and providing communication services to the mining industry. I congratulate Michael and his team and wish them all the very best in their future success.

TRIBUTE TO LYN SMITH

Ms MELANIE GIBBONS (Menai) [1.25 p.m.]: I wish Lyn Smith, canteen manager at The Jannali High School, all the very best as she retires after 32 years of service to the school. With more than three decades running the school canteen, Lyn has made thousands of sandwiches and watched hundreds of students start and finish their high school careers, including my former staff member Rebecca Maher. Lyn will finish her time as the "tuckshop lady" at the end of this school year and will take plenty of memories with her. Lyn, a Loftus resident, remembers the original canteen items of sausage rolls, pies, cream teacake and apple charlotte, which have now made way for healthier lunchtime options like wraps. She will leave a legacy that will be hard to replace and hopes that her rules of "good manners, no pushing in, and no hoodies or earphones" will continue to be adhered to. When Lyn started working at the high school it was an all-boys school. Today The Jannali High School is coeducational and is now known for its successful music, drama and debating programs. I wish Lyn all the best in her retirement and thank her for 32 years of service to The Jannali High School.

ST JEROME'S PRIMARY SCHOOL

Mr ROBERT FUROLO (Lakemba) [1.26 p.m.]: I congratulate St Jerome's Catholic Primary School in Punchbowl on its eightieth anniversary. It was a great pleasure to attend the thanksgiving mass on 6 September, celebrated by Bishop Terry Brady. St Jerome's Primary School first opened in 1933 with 129 students under the auspices of the Sisters of St Joseph's. The school has grown to accommodate more than 300 students, and over 90 per cent of students come from a non-English speaking background. Even though the school has changed significantly during its 80-year history, it is the school's commitment to its founding values of providing a nurturing and supportive environment for its students, families and the local community that has seen the school thrive. I congratulate the students, staff, principal Des Fox and all the parish of St Jerome's on the occasion of the school's eightieth anniversary.

MACARTHUR HARNESS RACING

Mr BRYAN DOYLE (Campbelltown) [1.27 p.m.]: I congratulate Harness Racing New South Wales on making Macarthur the centre of harness racing in Australia. On Friday I was honoured to attend the opening of the Rex Horne grandstand. It is the jewel of the magnificent infrastructure at Menangle Park, Macarthur, which has a wonderful racetrack, a 300-seat convention centre and corporate facilities. This facility will become the entertainment precinct for the Macarthur area. I congratulate the Chief Executive of Harness Racing New South Wales, John Dumesny, Rex Horne and all of the committee on their great work in promoting Macarthur.

ROTARY DOWN UNDER GRAFFITI REMOVAL DAY

Mr GREG PIPER (Lake Macquarie) [1.28 p.m.]: I acknowledge Rotary Down Under and all those who participated in Graffiti Removal Day on 20 October this year. I assisted Toronto Rotary, whose president is Margaret Scott, in that event, which was coordinated by Rotarian Peter Kay. Some 65 local government areas across New South Wales participated in this project, which was sponsored by the New South Wales Government, and I congratulate the Government on that, as well as all the Rotarians and partners who participated and made our area just a little cleaner. Congratulations and a big thank you to everyone who participated, including Girl Guides NSW and the men's sheds.

STATE BUSHFIRES

Mr BART BASSETT (Londonderry) [1.29 p.m.]: During the recent bushfires we saw the heroic and selfless acts of the firefighters from the Rural Fire Service, Fire and Rescue NSW, firefighters from interstate and the State Emergency Service, National Parks and Wildlife Service, and police support. I extend my gratitude to the thousands of volunteers from other organisations who provided catering, logistical support and welfare services. I acknowledge the Red Cross, Adventist Development and Relief Agency, Salvation Army, Anglicare, Disaster Recovery Chaplaincy Network, St John Ambulance, Save the Children, Baptist Community Services, other churches, schools, local businesses who donated food and drinks, Rotary, Lions and other service clubs and also the animal rescue services who worked with Hawkesbury and Blue Mountains councils and the Department of Primary Industries to treat injured wildlife and pets and relocate horses and livestock to safe places such as the temporary shelter at the Hawkesbury showgrounds in Clarendon. We thank all the volunteers who have pitched in over the past two weeks.

LAE CAMPAIGN SEVENTIETH ANNIVERSARY

Ms TANIA MIHAILUK (Bankstown) [1.30 p.m.]: I am pleased to advise the House of the recent service commemorating the seventieth anniversary of the Lae Campaign in June 1943. The service was held at Remembrance Driveway in Bass Hill and was attended by Her Excellence Professor Marie Bashir, AC, CVO, Governor of New South Wales. The service was organised by the 7th Australian Division AIF Association. I thank President Dick Payten, OAM, who has been president of the association for the past nine years, for his invitation to attend the service. I also acknowledge Norm Ensor, secretary and treasurer of the association. During World War II between the years 1943 and 1944 the Australian 7th Division fought Japanese forces in the north-east of New Guinea, with Lae falling on 16 September 1943. The 7th Division was then stationed around Dumpu and Marawasa to guard the approaches to Lae. From February 1944 the 7th Division began to return to Australia, and this campaign has been honoured at Remembrance Driveway in Bass Hill for the past five years. The service has provided an opportunity for our community to honour the brave men and women who fought during this battle. Lest we forget.

ANDREW OLLE SCHOLARSHIP RECIPIENT NATALIE WHITING

Mr ANDREW GEE (Orange) [1.31 p.m.]: I draw the attention of the House to the fact that Natalie Whiting from the ABC in Orange has won the 2014 Andrew Olle scholarship. The award, which was presented last week at the Andrew Olle Lecture in Sydney, is presented to an existing ABC journalist to further their work under the guidance of more experienced journalists. Over the next year Natalie will have the opportunity to work with every department of the ABC, developing her career along the way. I congratulate Natalie on winning this highly prestigious award, and we in Orange certainly look forward to hearing of her successes in the future. Well done, Natalie Whiting.

Community recognition statements concluded.

[*Deputy-Speaker (Mr Thomas George) left the chair at 1.32 p.m. The House resumed at 2.15 p.m.*]

BUSINESS OF THE HOUSE

Notices of Motions

Government Business Notices of Motions (for Bills) given.

QUESTION TIME

[*Question time commenced at 2.21 p.m.*]

ELECTRICITY ASSETS SALE

Mr JOHN ROBERTSON: My question is directed to the Premier. Will the Premier rule out the sale of poles and wires in New South Wales?

Mr BARRY O'FARRELL: Yes.

The SPEAKER: Order! I call the member for Oatley to order for the first time.

WORKERS COMPENSATION REFORMS

Mr JOHN SIDOTI: My question is directed to the Premier. How is the Government supporting jobs and businesses in New South Wales?

Mr BARRY O'FARRELL: This morning it was a pleasure to join the member for Drummoyne and the member for Strathfield at a local business to reflect on the importance of the private sector to the State and national economies. One of the key tasks of government is to support the private sector. It is the private sector that creates the wealth, generates the jobs, and provides the living standards and opportunities that people across the State are so keen to receive. This morning I was delighted to be there with the member for Drummoyne, the member for Strathfield and the Minister for Finance and Services to speak to a local businessman about what we are doing in relation to workers compensation.

A key commitment of this Government was to support jobs growth and boost the economy. Today we announced further measures that will help us achieve that goal. In the company of the members and the Minister to whom I have referred I visited a thriving businesses—Aldridge Traffic Systems at Rhodes, which makes traffic lights and other traffic control technology. That business has been operating for 25 years. It has three factories and approximately 150 employees. We visited that business to announce a further reduction in WorkCover premiums. Our WorkCover reforms are delivering a sustainable and fairer system, with more generous payments for severely injured workers, and businesses are being provided with incentives to make their workplaces even safer.

Today I confirm that for the first time since 2008 the WorkCover scheme is back in the black. Today's news means that injured workers have a guarantee that the benefits they are owed will be paid. If there is not financial stability in the WorkCover scheme, there can be no such guarantee: Yet a lack of financial security is what Labor members left not just to this Government but to workers across the State. The WorkCover premium reductions announced today mean that 200,000 employers across approximately 400 industries will benefit from an average premium rate reduction of 5 per cent. Together with rate reductions we announced earlier, businesses will receive an average 12.5 per cent rate reduction in their 2013 WorkCover premium cycle.

This Government's actions to fix the scheme mean no employer will receive a rate increase in 2013. That is terrific news for business because WorkCover premiums are an on-cost—a cost that businesses must meet and a cost of employing people. When we consider that on average New South Wales premiums are approximately 60 per cent greater than those of Queensland or Victoria, they are also a bar on investment in New South Wales. The point about reducing business costs is not just to support existing jobs but to grow jobs by attracting additional investment to the State. Before we announced our changed to WorkCover, we were given a dire warning that there was a projected $4.1 billion deficit and that New South Wales WorkCover premiums are significantly higher than those of other States.

As the member for Monaro stated, we were advised that to make the scheme solvent again we would need to increase premiums by approximately 28 per cent. The NSW Business Chamber quickly did its sums and said that cost 12,000 jobs across New South Wales—which no-one can afford to lose from any city, State or suburb, let alone New South Wales—and we were not about to allow that to happen. The Government took the tough but necessary decisions to reform the scheme. The rate reductions we have announced are affordable because return-to-work and recovery rates are improving, the scheme is being run more efficiently, and there have been fewer open and active claims. Investment returns also have been improved. Returning to work early and safely is good for recovery and helps workers to regain financial independence sooner. Safe Work Australia has reported that in 2012-13 the New South Wales return-to-work rate improved by 3 per cent to 88 per cent, which is above the national average of 86 per cent. Who on earth could oppose a reform that helps businesses expand, creates jobs and gives families across New South Wales greater income?

The SPEAKER: Order! I call the member for Maroubra to order for the first time. Government members will come to order.

Mr BARRY O'FARRELL: Only the Labor Party thought that the 12,000 jobs should be lost, there should be a 28 per cent increase in the cost of WorkCover premiums and there should be no changes made to the scheme.

Mr JOHN SIDOTI: Jobs, jobs, jobs. I seek an extension of time for the Premier.

[*Extension of time granted*.]

Mr BARRY O'FARRELL: Is that an application? Labor's reckless promise to scrap the WorkCover changes would plunge WorkCover back into debt and remove a safety net from every employee across the State. Increased benefits that this Government has been providing to severely injured workers cannot be guaranteed if we do not have a financially stable scheme. The Leader of the Opposition missed his chance to fix the scheme when he was a member of the WorkCover board between 2001 and 2007. He showed up to only half of the board meetings during that period.

The SPEAKER: Order! I call the Leader of the Opposition to order for the first time.

Mr BARRY O'FARRELL: In 2006-07 he did not attend a single meeting of a board whose meetings he was paid to attend. Is it any wonder that that scheme went into the red with such a lack of oversight by the

types of people who sit opposite? The member for Maroubra is not committed to fixing WorkCover either. Madam Speaker, we all remember his shameful and shaky display towards you in this House during the WorkCover debate.

Ms Carmel Tebbutt: You are bringing up everything in this one, aren't you? You must be worried.

The SPEAKER: Order! I call the member for Marrickville to order for the first time.

Mr BARRY O'FARRELL: If I take a page from the playbook of the member for Marrickville, I am happy to say so. The member for Maroubra was criticised by the former Chairman of WorkCover, Greg McCarthy, because of his neglect of the scheme that resulted in that projected $4.1 billion blowout in the scheme's costs. We make no apology for providing a fairer scheme, a scheme that encourages workers back to work as quickly as possible, a scheme that provides significantly greater benefits to those who can never return to work but, importantly, a scheme that incentivises employers to have safe workplaces. [*Time expired.*]

HEALTH FUNDING

Dr ANDREW McDONALD: My question is directed to the Minister for Health, and Minister for Medical Research. Given that the NSW Report on State Finances, which was released yesterday, shows that the Treasurer got it wrong again—this time by $600 million—meaning that the budget is in surplus, will the Minister be asking the Treasurer for funding to reverse her cuts to Health and to reopen the ward she closed at the Prince of Wales Hospital?

Mrs JILLIAN SKINNER: I thank the member opposite for a great Dorothy Dixer. I am happy to say that the Treasurer has responded positively every time I have asked for an addition to the Health budget. This year 5.2 per cent extra was allocated in the recurrent budget—a record $17.9 billion.

The SPEAKER: Order! I call the member for Macquarie Fields to order for the first time.

Mrs JILLIAN SKINNER: That is more money than has ever been spent on Health in New South Wales. Right across the system, every local health district and every hospital has had an increase in its budget.

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

Mrs JILLIAN SKINNER: That is why the Government is able to provide extra surgeries, extra emergency department attendances—

The SPEAKER: Order! I call the member for Oatley to order for the second time. Members will cease interjecting.

Mrs JILLIAN SKINNER: We have opened more beds, we have employed 4,100 extra nurses in terms of body count, and we have employed extra paramedics and extra doctors.

The SPEAKER: Order! I call the member for Canterbury to order for the first time.

Mrs JILLIAN SKINNER: We are able to roll out new services across country New South Wales. I am thrilled that we are working on a rural health plan that points out the huge advances that have been made.

Dr Andrew McDonald: Point of order: My point of order relates to relevance under Standing Order 129. The question was about the closed beds at the Prince of Wales Hospital.

The SPEAKER: Order! There is no point of order. The Minister is being relevant to the question asked.

Mrs JILLIAN SKINNER: The question was: Would I go to the Treasurer and ask for more money? The answer is yes, I always do—and he always obliges.

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

Mrs JILLIAN SKINNER: This year we have $17.9 billion for Health.

The SPEAKER: Order! I call the member for Keira to order for the first time.

Mrs JILLIAN SKINNER: What a great Treasurer: $17.9 billion for Health this year. Furthermore, in respect of capital funding, we have $1.2 billion and a total over the four-year period of the O'Farrell Government of $4.7 billion. That record has enabled us to do many things, including building a new cancer centre at the Prince of Wales Hospital, opening beds and providing more treatments.

The SPEAKER: Order! The member for Macquarie Fields will cease interjecting. I call the member for Macquarie Fields to order for the second time. I call the member for Macquarie Fields to order for the third time.

Mrs JILLIAN SKINNER: This year the South East Sydney Local Health District budget has increased by $1.47 billion—4.5 per cent. That has enabled the Prince of Wales hospital—and many others where there is marvellous work being done by doctors and nurses, allied health professionals and others—to provide more surgeries and treatments for patients. Extra money has been provided for ambulances. I was pleased that today's *Sydney Morning Herald* highlighted one of our NSW Health Innovation Awards to paramedics who are doing a marvellous job caring for patients who frequently call 000 to get attendance by ambulance.

Dr Andrew McDonald: Point of order: My point of order is again under Standing Order 129. The question was relating to the closed beds at the Prince of Wales Hospital.

The SPEAKER: Order! The Minister is being relevant to the question asked. The member for Macquarie Fields is testing my patience by taking vexatious points of order. I remind him that he is on three calls to order.

Mrs JILLIAN SKINNER: I am surprised that the Opposition does not want to know about the wonderful work that our paramedics are doing, providing special care for patients who regularly feel they have to call 000 to get ambulances to attend. I take my hat off to those hardworking paramedics. I was thrilled that they received an Innovation Award as part of our awards this year. I refer again to the Prince of Wales Hospital. A total of $1.47 billion from the budget has gone to the South East Sydney Local Health District, resulting in an increase of $15 million for the Prince of Wales Hospital this year. That brings it to a record $373.3 million. Get it clear: There have been no cuts to the budget. It is $373.3 million this year. It is all in the budget.

The SPEAKER: Order! I call the member for Maroubra to order for the second time.

Mrs JILLIAN SKINNER: I know the Treasurer has to point out all the time that the Government has released a thing called the New South Wales budget. I suggest that the member opposite go and have a look at it. He will see that there have been no cuts. If he reads it, he may learn something.

The SPEAKER: Order! I call the member for Monaro to order for the second time.

STATE INFRASTRUCTURE FUNDING

Mr STEPHEN BROMHEAD: My question is addressed to the Deputy Premier, Minister for Trade and Investment, and Minister for Regional Infrastructure and Services. How is the Government boosting infrastructure funding by attracting overseas investment?

Ms Noreen Hay: Tell us, we want to hear you. You are so good. You've got jetlag.

Mr ANDREW STONER: Do you really want to go there? The Liberal-Nationals Government came to office with a strong commitment to make New South Wales number one again by rebuilding its economy and infrastructure. With that in mind, early in its term the Government developed the State Migration Plan. We sought to attract high-value migrants to New South Wales, the sort of people who contribute to our community, not just in a cultural and relationship sense but also in an economic sense. I am referring to skilled migrants, business migrants and investor migrants.

Arising from the State Migration Plan, the Government liaised with the Federal Government with respect to the introduction of a new visa called the Significant Investor Visa. To its credit, the then Federal

Government introduced the scheme in November last year, mirroring arrangements that applied in some other notable jurisdictions, such as Singapore, the United States, Canada and New Zealand. Under the scheme investors applying for the Significant Investor Visa are required to invest a minimum of $5 million in the relevant jurisdiction—in this case, New South Wales. The New South Wales Government developed its own set of guidelines to apply to the New South Wales Significant Investor Visa, which not only included the minimum $5 million investment but a minimum of 30 per cent of that $5 million to be invested in Waratah bonds. Members will be aware that Waratah bonds helped to fund the Restart NSW fund which, in turn, is used to fund essential infrastructure to further drive the economic growth in this great State of New South Wales.

I am pleased to advise that, as a result of trade missions—some of which were undertaken by the Premier and me—there has been strong demand in the New South Wales Significant Investor Visa scheme. With our trading partners—particularly in Asia, but also in other key areas—the Government has promoted the many benefits of investing and living in New South Wales. This strong demand reflects the strength and diversity of the New South Wales economy. It is a great economy in which to invest and this is backed, of course, by the Government's triple-A credit rating, which was recently reaffirmed by the ratings agencies.

Since 24 November last year we have had 239 applications for Significant Investor Visas into New South Wales. I am pleased to say that 15 applications have been approved by the Federal Government. Federal approval of applications was slightly delayed but has sped up with the recent change of government. Those 15 approved visas will bring an investment of at least $75 million. That is what this Government is about—attracting investment to drive economic growth in our State. More than half of the approved investors under the Significant Investor Visa scheme have chosen to invest not just the minimum 30 per cent in Waratah bonds but invest 100 per cent of the $5 million in Waratah bonds.

That means I can advise the House that to date more than $50 million has been invested in Waratah bonds courtesy of the Significant Investors Scheme. Of course, I have said already that Waratah bonds helped to fund Restart NSW, which funds essential infrastructure. So we have $50 million more for essential infrastructure such as the Pacific Highway, our Bridges for the Bush scheme, the upgrade of the Bells Line of Road and water security projects in regional communities. Demand remains strong because through trade missions and our international engagements we continue to promote New South Wales. [*Extension of time granted*.]

If the remaining 224 applications are approved by the Federal Government, more than $1 billion will be attracted from investment. If the same proportion of investors choose to invest it all in Waratah bonds, more than $500 million will be available for essential infrastructure so that Jillian can continue to fix hospitals, the education Minister can continue to fix and build new schools, and we could build roads and rail. The Minister for Transport is getting excited about building more rail lines. This success results from the better international engagement and target migration strategies that this Government has implemented. Based on the policies put forward yesterday by the Leader of the Opposition, that level of international engagement would cease. Despite the world travelling track record of those opposite when they were in government—travelling without a migration or international engagement strategy—the Leader of the Opposition thinks the potential $1 billion investment is a waste of money; he thinks it should not be sought. This morning he was on Central West ABC radio suggesting that the Deputy Premier should have travelled to Sweden to save Electrolux. You hypocrite!

The SPEAKER: Order! Members will come to order.

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES CASEWORKER VACANCIES

Ms LINDA BURNEY: My question is directed to the Minister for Family and Community Services. I refer to the Report on State Finances, which was released yesterday. Will the Minister ask the Treasurer for funding from his hidden surplus to reinstate child protection caseworkers and other programs she has cut, such as the Cabramatta Street Team?

Ms PRU GOWARD: I thank the member for her question. Of course, I instructed my department to fill all vacancies. We budgeted for 2,068 caseworkers because that is what we expected to fill. I instructed the director general to fill those positions in March. That is what matters. The inevitable fact for the Labor Party is that we are seeing more children on our watch than it did. We have managed to increase to 28 per cent the percentage of children at risk of significant harm who are seen. That is what matters. We now have a youth crisis response team all over New South Wales, instead of in two areas only.

DROUGHT ASSISTANCE

Mr TROY GRANT: My question is addressed to the Minister for Primary Industries, and Minister for Small Business. How is the Government supporting farmers affected by drought in north-west New South Wales?

Ms KATRINA HODGKINSON: I thank the member for Dubbo for his important question and commend him for his interest in this matter. Many parts of New South Wales are exceptionally dry at this time, as I mentioned in the House last week. Landholders in the west and north-west of New South Wales are dealing with an extended period of drought. Further to the member's question, today I am happy to announce a package of in-drought and drought preparedness measures to assist landholders in that part of the world. I mention also that the member for Murray-Darling and the Minister for Western New South Wales have had regular discussions with me about this matter. We will provide $20 million for a Farm Innovation Fund to provide producers with loans at concessional interest rates for in-drought and drought preparedness; $4.4 million to fund phase three of the popular Cap and Pipe the Bores program; and around $6 million of Commonwealth and New South Wales Government funding for the Mallowa Creek Water Supply Project to guarantee stock and water supply for a group of landholders between Moree and Collarenebri.

Last week members of the Regional Assistance Advisory Committee visited towns and properties in north-western New South Wales, meeting with more than 150 landholders. Following that visit, the committee chair made a number of recommendations. We want to help producers prepare for adverse seasonal conditions rather than simply assist after the fact. Clearly, producers in north-west and western New South Wales are dealing with an extraordinary situation. In the past 10 years many producers have had just two seasons free from flood or drought. Our farmers are the best in the world—no doubt about that—but it is immensely difficult to sustain any business when facing such dreadful conditions. While producers in the Bourke, Brewarrina and Walgett local government areas will be eligible for the immediate assistance measures announced today, the Regional Assistance Advisory Committee will continue to monitor surrounding districts closely.

The new Farm Innovation Fund will enable producers to access loans at concessional interest rates to prepare their properties for future seasonal conditions and to respond to scenarios, such as the one currently facing primary producers in north-western New South Wales. We have incorporated the best elements of the former Special Conservation Scheme into the new Farm Innovation Fund. The fund will assist primary producers to identify and address risks to their enterprise, improve permanent farm infrastructure, and ensure long-term productivity and sustainable land use. Landholders will need to develop a satisfactory management plan, including strategies for managing risks such as adverse seasonal events, climatic variability, market prices and disease. Special measures that landholders can undertake include the cleaning and de-silting of dams—many landholders will be pleased with that assistance—planting perennial species; and the construction of on-farm infrastructure, such as sheds, grain and fodder storage, and fencing. That is all good news for landholders.

A terrific part of today's announcement is a further $4.4 million commitment from the New South Wales Government to fund the next phase of the popular Cap and Pipe the Bores program, which we have asked the Commonwealth to match. Many producers in north-western New South Wales find themselves in a terrible situation. No doubt all members of the House appreciate the work that producers have done to date to prepare for and deal with drought. It is a tough situation that is getting worse each day without rain. The New South Wales Government is actively considering other measures to assist landholders. Tomorrow I will meet with the Commonwealth Minister for Agriculture, the Hon. Barnaby Joyce, and Queensland Minister for Agriculture, Forestry and Fisheries, Dr John McVeigh, to discuss broader drought policy.

In these discussions I will focus on the key issues of developing an accelerated depreciation scheme to encourage drought preparedness, increasing flexibility in farm management deposits, enabling better access to the Transitional Farm Family Payment, and the potential for interest rate subsidy assistance. I encourage producers in the Bourke, Brewarrina and Walgett local government areas to contact the Rural Assistance Authority for further information about what assistance they may be eligible to receive. Other areas around New South Wales are feeling the pinch due to lack of rain. Our Regional Assistance Advisory Committee is assessing other parts of the State continually.

EDUCATION FUNDING

Mr MICHAEL DALEY: My question is directed to the Deputy Premier, Minister for Regional Infrastructure and Services, and Leader of The Nationals. Given that the budget is now in surplus, will the Minister ask the Treasurer to reverse the cuts to TAFE and 75 local schools in country New South Wales?

The SPEAKER: Order! Government members will come to order. I call the member for Oatley to order for the third time.

Mr ANDREW STONER: One would expect the shadow Treasurer to understand that questions relating to the Education budget are best directed to the Minister for Education.

The SPEAKER: Order! Members will come to order. Members who continue to interject will be removed from the Chamber.

MINISTERIAL CODE OF CONDUCT

Mr ROB STOKES: My question is addressed to the Attorney General and Minister for Justice. General, how important is integrity when holding public office?

Mr GREG SMITH: I thank the member for Pittwater for the question and for the great respect that he shows. The Independent Commission Against Corruption has received a lot of coverage in recent weeks and is continuing to hear astounding revelations about the conduct of former Labor Ministers—coals, cafes, cars.

The SPEAKER: Order! This is a serious question. Members will come to order. If the member for Maroubra and the member for Canterbury continue to interject they will be removed from the Chamber.

Mr GREG SMITH: Then there is Currawong and the $3 billion bribe offer to the Leader of the Opposition. He has still failed to adequately explain why he did not refer the offer to the authorities. His colleagues may soon have their say on his poor judgement, if you believe the member for Maroubra and the member for Toongabbie. The Leader of the Opposition has confirmed to radio 2GB that he told other people about the bribe offer. He needs to say who those people were. Was one of them Eddie Obeid or a member of his family? We all know that the Leader of the Opposition visits the Obeid family's ski lodge.

The SPEAKER: Order! Government members will come to order.

Mr GREG SMITH: Mr Obeid's diary, which was tabled at the Independent Commission Against Corruption this week, made for interesting reading. The Leader of the Opposition and Mr Obeid appear to have been meeting very regularly. There were meetings on consecutive days in September 2007, when the Leader of the Opposition was with Unions NSW. If you believe the Leader of the Opposition, they hardly know each other. But the facts appear to contradict that. There is already a question as to whether the Leader of the Opposition breached the Crimes Act by not referring the $3 million bribe offer to authorities.

Mr Michael Daley: Point of order: This is a tailor-made example of why—

The SPEAKER: Order! There is no point of order. The member for Maroubra has not cited which standing order has been breached.

Mr Michael Daley: I have not yet articulated my point of order.

The SPEAKER: Order! When taking a point of order the member should cite which standing order has been breached.

Mr Michael Daley: I am trying, Madam Speaker.

The SPEAKER: Order! Members will not launch into a diatribe.

Mr Michael Daley: I am trying, Madam Speaker.

The SPEAKER: Not hard enough. What is the point of order?

Mr Michael Daley: My point of order is that this is a classic case—

The SPEAKER: Order! The member has not cited the standing order that he believes has been breached.

Mr Michael Daley: —for why Standing Order 76 was conceived.

The SPEAKER: Thank you.

Mr Michael Daley: If you would stop interrupting me, I might be able to articulate my point of order.

The SPEAKER: Order! If the member for Maroubra does not know the standing orders he should not come into the Chamber. I direct the member for Maroubra to remove himself from the Chamber until the conclusion of question time.

[*Pursuant to sessional order the member for Maroubra left the Chamber at 2.52 p.m.*]

Mr GREG SMITH: There is already a question as to whether the Leader of the Opposition breached the Crimes Act by not referring the $3 million bribe offer to authorities.

Mr Richard Amery: Point of order—

The SPEAKER: Order! I am sure the member for Mount Druitt will cite the appropriate standing order.

Mr Richard Amery: Under Standing Order 73, the Attorney General should move by way of substantive motion any allegation against another member of the House. Using question time to fire cheap shots at the Leader of the Opposition—

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

Mr GREG SMITH: There is a question as to why the Leader of the Opposition did not mention the $3 million bribe offer during the many times he spoke in the other place about Currawong. A new and even more serious question has emerged. Members of the House will recall—

Ms Carmel Tebbutt: Point of order: It relates to Standing Order 73, which states that imputations and personal reflections are disorderly other than by way of substantive motion. I suggest that the Attorney General is making personal reflections and imputations, and I ask you rule him out of order.

The SPEAKER: Order! These matters have been reported widely in the press. The member for Macquarie Fields will cease arguing or he will be removed from the Chamber. The member for Marrickville makes a reasonable point but there is no point of order.

Mr GREG SMITH: Members of the House will recall the emergence of the secret audio recordings allegedly involving slain standover man Michael McGurk and corrupt activity by senior Labor figures. It was front-page news at the time; you could not have missed it. It was an explosive revelation. In 2009 the Independent Commission Against Corruption requested special powers to allow it to investigate the contents of tapes, and legislation was introduced to the Parliament. [*Extension of time granted.*]

The legislation was entitled the Independent Commission Against Corruption and Ombudsman Legislation Amendment Bill 2009. In November of that year it was introduced into the Legislative Council by the then Attorney General John Hatzistergos. I remember it well because I led the debate for the then Opposition in this place in support of the bill. However, it is more notable who did not speak about the bill than who did. Can anyone guess who sat silently during the debate involving McGurk, corruption allegations and secret tapes? That is right, the now Leader of the Opposition did not utter a word.

Ms Linda Burney: Point of order—

Mr GREG SMITH: It would have been the perfect opportunity for him to come clean.

The SPEAKER: Order! The Attorney General will resume his seat. The Leader of the Opposition will come to order. The member for Canterbury has the call.

Ms Linda Burney: Point of order: I refer to Standing Order 73. Two members have cited that point of order, but I repeat—

The SPEAKER: Order! The matters have been canvassed widely in the media and elsewhere.

Ms Linda Burney: —it is question time, and Standing Order 73 is clear about imputations.

The SPEAKER: Order! The question is in general terms. The member for Canterbury will not debate the issue. The Attorney General is being relevant to the question asked. There is no point of order.

Mr GREG SMITH: It would have been the perfect opportunity for the Leader of the Opposition to come clean—as if he had not already had enough chances by that stage. His silence in Parliament on the $3 million bribe condemns him. The Leader of the Opposition needs to answer these questions because they go to honesty and judgement. Let me draw the attention of the House— [*Time expired*.]

GLEBE PUBLIC SCHOOL FUNDING

Mr JAMIE PARKER: My question is directed to the Minister for Education. Considering the Glebe Public School population is 30 per cent Indigenous and more than 60 per cent of students are from low-income families, can the Minister understand why the school community is disappointed that under the new funding model this needy public school will be worse off?

The SPEAKER: Order! The member for Murray-Darling will come to order. He will not abuse other members.

Mr ADRIAN PICCOLI: Last week I had the pleasure to meet and talk with the principal of the Glebe Public School at the annual conference of the Primary Principals Association. She is a lovely lady and invited me to the school, which is an invitation that I accepted. Glebe Public School is close to Parliament House, so it will be easy to pop over there. On several occasions last week I said that this Government has been transparent about how and why schools are funded, with respect to the Aboriginal equity loading and the disadvantaged equity loading. Funding for 91 per cent of schools went up and funding for 9 per cent of schools went down. We have been clear about why that has occurred.

There has been consultation throughout the entire process. The model was developed in conjunction with the Primary Principals Association and the Secondary Principals Council. I am sure there are teachers and others at Glebe Public School, and many other schools, who advocated for Gonski, which is a needs-based funding model that this Government has delivered. Under that model, funding for some schools will go up and for others will go down. I gave some glaring examples of the significant shifts in funding. The Hunter Sports High School received $400,000 one year, $130,000 the next year and zero the year after.

Those are the kinds of fluctuations we had previously. It was a very inaccurate way of determining the level of disadvantage at schools in this State. A lot was done by way of survey. Schools were sent surveys and parent bodies were asked to fill them out. Some schools offered incentives for parents to complete the surveys—they would go in the draw for a prize if they returned their surveys. I was told only yesterday that some schools even put on a barbeque so that parents would come and fill out the surveys. That was how the equity funding for distribution to schools was determined under the previous Government, and before that. It was hardly an accurate way of obtaining information about the relative disadvantage of schools. Often those schools with the louder voices would continue to receive funding under the equity program.

The SPEAKER: Order! I remind the member for Macquarie Fields that he is on three calls to order.

Mr ADRIAN PICCOLI: I am placing matters of fact on the record. That is how equity funding used to be determined.

Ms Carmel Tebbutt: So the schools that jumped up and down got more money.

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

Mr ADRIAN PICCOLI: To a degree that is right. It was a very inaccurate way of determining equity funding. Yesterday afternoon I had a drink with a few of the hardworking staff from the Department of Education and Communities. I thanked them for their work in putting together a world-first funding model for schools. Indeed, I was told this morning that because of that funding model New South Wales is now the envy of the other Australian States and Territories. Members on both sides of the House should thank the department

for its hard work. It is all about accurate information for our schools. The data that will now come to the department from schools in the inner city and Western Sydney will be the same as that from schools at Walgett, Broken Hill or Tamworth. Every school and every student will have the same information and funding decisions will be made on the same basis. As I said, it was very ad hoc before that.

The Government has been very transparent. We should be proud of the fact that in New South Wales we have a world-class system for allocating funding. In addition, the Government has spent another $100 million. But at some point people have to show leadership about how extra dollars are to be spent. It is often the case with policy decisions that when leadership is needed the funding for some schools will increase whilst funding for others will go down. If we do not want to show any leadership then we say: No school loses any money. That means we would have to take $10 million from other schools to fund it.

The SPEAKER: Order! I call the member for Wollongong to order for the first time.

Mr ADRIAN PICCOLI: Unless those opposite have some suggestions as to which schools we should take the money from, the funding model will remain as it is. I agree that the funding for Glebe Public School went down slightly, but this funding model is highly supported by all stakeholders in New South Wales. It is very accurate. I am happy to visit Glebe Public School any time.

STATE INFRASTRUCTURE FUNDING

Mr JAI ROWELL: I address my question to the Treasurer, and Minister for Industrial Relations. How is the Government freeing up funds to build infrastructure?

Mr MIKE BAIRD: I thank the member for his question and congratulate him on his incredible efforts in helping his community over the past week or so with the difficulties it has encountered. I think it is important that I should explain to those opposite what fiscal responsible management looks like. I get very concerned about what comes out of the mouths of those opposite. I note that the middle managers' hero is gone from the Chamber. That means it is time for first grade to step up. It is time for the member for Cessnock to come forward and take the job. He is the only person—

The SPEAKER: Order! The member for Cessnock will come to order. He should not be tempted to respond to the Treasurer's comments.

Mr MIKE BAIRD: The Government has taken the actions necessary to get the budget back on track. Yesterday we announced that the State has just got back into a surplus position—just got back into the black. Those opposite appear to be upset that we are back in that position; I do not understand why they would be upset. After 16 long years this Government has taken action on infrastructure promises that meant nothing to those opposite. They were fantastic at putting videos together—with little things moving—but they delivered absolutely nothing. The people of this State want a government that will deliver, and that is exactly what we have done. The people know that those opposite have opposed every single savings measure and every single asset transaction we have undertaken. In simple terms, the member for Miranda has to go back and explain to his electorate why under his leader they would be $3 billion a year in deficit.

We on this side of the House make no apologies whatsoever for getting on and building the infrastructure that our communities want. Our strategy is quite simple. We have outlined the transactions for the desalination plant, the long-term lease of the ports and the electricity generators. We have cleaned up the mess that those opposite left us. We are now reinvesting those proceeds in the infrastructure that is needed right across this State—whether it be the North West Rail Link, the Pacific Highway upgrade, the Princes Highway upgrade, the WestConnex project or hospitals. Not only have we on this side of the House endorsed this model but it has also been endorsed by—I would not exactly call him a capitalist czar—none other than Paul Howes.

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

Mr MIKE BAIRD: We all know Paul Howes—those opposite know him particularly well. He said in relation to the model being employed in New South Wales:

> As taxpayers they benefit instantly from the sale and as superannuants they will benefit during retirement from the returns.

That model has been endorsed by one of the champions of those on the other side of the House yet they still oppose it. We also looked at how to get models together to deliver infrastructure in the quickest possible way. For example, we came up with a good financing plan for the WestConnex project. The *Australian Financial Review*—these are not my words—said:

> It is a brilliant plan … an innovative funding model … [that] takes the risk out of infrastructure investment.

That is what those on this side of the House have done—we know what those opposite did. The Government has also looked at tax equivalent payments, as announced in the paper today. Where has Swannie gone? The State Treasurers said to the former Federal Treasurer, "In relation to the transactions that we have put forward, we think there is an opportunity to give the tax equivalent money back to the States rather than that windfall revenue going to Canberra." That sensible proposal was supported by the Labor States—my good mate Jack Snelling in Victoria and Lara Giddings in Tasmania.

If that proposal had been supported, on the transactions we are currently undertaking there would $169 million for additional infrastructure in this State. But only those opposite can explain why they are not interested in that. Today the shadow Treasurer was giving radio interviews. It is always a white-knuckle affair—you do not quite know where he will go. He spoke about tax equivalents, dividends and gross proceeds, and got them all mixed up. He did not know where he was. In fact, he has gone from the Chamber. It is little wonder that those opposite are in disarray. But the strong and secure team on this side of the House is getting on with delivering fiscal responsibility for this State. [*Extension of time granted*.]

I get a little nervous when the Leader of the Opposition starts to turn his attention to policy. Obviously we want to drive the economy because it brings revenue and that means we can put more into infrastructure. It is quite simple. We all know the secret plan of the Leader of the Opposition is to shut down coalmining. No wonder the member for Cessnock is trying to get on the frontbench—he is trying to stop that. That is $14 billion and 22,000 jobs; the Leader of the Opposition does not care. Members might have missed the fact that he has another secret plan. It would be best if that plan were kept secret but last weekend the Leader of the Opposition blurted it out publicly. He said he has a fantastic idea to shut down the housing sector. His policy is to take away incentives for building new homes. That is genius; that is top of the pops as far as I am concerned.

If you want the economy to go backwards then the Leader of the Opposition is your man. There is no doubt about it. Only he can explain that, and I look forward to the detailed response about taking away incentives to build new homes. Just as the housing sector is starting to move, the Leader of the Opposition wants to take those incentives away. We on this side of the House take a very responsible approach to managing the budget and to building the infrastructure this State desperately needs. We are very proud of our record, and we will continue to deliver the infrastructure that the community needs because that is exactly what they deserve.

MINISTERIAL CODE OF CONDUCT

Mr GREG SMITH: I wish to provide additional information to a question already answered, under Standing Order 131 (8). I draw the attention of the House to the 2011 Code of Conduct for Ministers of the Crown. It states:

> 3.4 Where in any meeting of the Executive Council, Cabinet or in any committee or sub-committee of Cabinet an actual or apparent conflict of interest arises or is likely to arise in any matter, the Minister shall, as soon as practicable after the commencement of the meeting, disclose the existence and nature of that conflict.
> The disclosure shall be recorded in the minutes of the meeting.
> The Minister shall abstain from participating in discussion of that matter and from voting on it.

In accordance with that, did the Leader of the Opposition excuse himself from the decision-making process because of a conflict of interest? Did he declare a conflict of interest? Surely, if you are offered a $3 million bribe by an individual and there is then legislation specifically relating to that individual and alleged corruption—

Mr Richard Amery: Point of order—

The SPEAKER: Order! I have permitted the Attorney General to speak under Standing Order 131 (8) and his time is unlimited. What is the member's point of order?

Mr Richard Amery: It is Standing Order 73. The member opposite is using the standing orders and the end of question time to attack another member of the House. Standing orders say he must do that by way of substantive motion—

The SPEAKER: Order! The Attorney General is not attacking another member. The matters he has raised have been canvassed previously. There is no point of order.

Mr GREG SMITH: Surely if someone is offered a $3 million bribe—

Mr Richard Amery: Madam Speaker—

The SPEAKER: Order! Is the member for Mount Druitt canvassing my ruling?

Mr Richard Amery: I am not canvassing your ruling on Standing Order 73; you have already ruled on that. Under Standing Order No. 58, I move:

That the member for Epping be not further heard.

Question—That the member for Epping be not further heard—put.

The House divided.

Ayes, 20

Mr Barr	Ms Hornery	Mr Robertson
Ms Burney	Mr Lynch	Ms Tebbutt
Ms Burton	Dr McDonald	Ms Watson
Mr Collier	Ms Mihailuk	Mr Zangari
Mr Furolo	Mr Park	*Tellers,*
Ms Hay	Mrs Perry	Mr Amery
Mr Hoenig	Mr Rees	Mr Lalich

Noes, 69

Mr Anderson	Ms Gibbons	Mr Piccoli
Mr Aplin	Ms Goward	Mr Piper
Mr Ayres	Mr Grant	Mr Rohan
Mr Baird	Mr Greenwich	Mr Rowell
Mr Barilaro	Mr Gulaptis	Mrs Sage
Mr Bassett	Mr Hartcher	Mr Sidoti
Mr Baumann	Mr Hazzard	Mrs Skinner
Ms Berejiklian	Ms Hodgkinson	Mr Smith
Mr Bromhead	Mr Holstein	Mr Souris
Mr Brookes	Mr Humphries	Mr Speakman
Mr Casuscelli	Mr Issa	Mr Spence
Mr Conolly	Mr Kean	Mr Stokes
Mr Constance	Mr Marshall	Mr Stoner
Mr Cornwell	Mr Notley-Smith	Mr Toole
Mr Coure	Mr O'Dea	Ms Upton
Mrs Davies	Mr O'Farrell	Mr Ward
Mr Dominello	Mr Owen	Mr Webber
Mr Doyle	Mr Page	Mr R. C. Williams
Mr Edwards	Mr Parker	Mrs Williams
Mr Evans	Ms Parker	
Mr Flowers	Mr Patterson	
Mr Fraser	Mr Perrottet	*Tellers,*
Mr Gee	Mr Provest	Mr Maguire
Mr George	Mr Roberts	Mr J. D. Williams

Question resolved in the negative.

Motion that the member be not further heard negatived.

The SPEAKER: Order! The Attorney General has the call and will be heard in silence.

Mr GREG SMITH: I remind the House that we are talking about consideration of the Independent Commission Against Corruption and Ombudsman Legislation Amendment Bill and whether the Leader of the Opposition declared a conflict of interest when discussing them. If a member is offered a $3 million bribe by an individual and then legislation comes forward specifically relating to the person who offered the bribe and alleged corruption, one would expect the conflict to be declared to the member's fellow Ministers and the Premier as the code requires. The Leader of the Opposition has been vocal about declaring alleged conflicts of interest in the past. He talks the talk, but did he walk the walk? I wonder what the Leader of the Opposition did in this situation.

Dr Andrew McDonald: Point of order: On page 393 of *Decisions from the Chair: Consolidated Rulings*, in 1974 and 1975 Speaker Cameron ruled that it is undesirable practice for a Minister to supply disputatious and controversial material in supplementation of his original reply. I draw that to your attention under Standing Order 73.

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

Mr GREG SMITH: I wonder what the Leader of the Opposition did in this situation. Did he support the legislation? Did he speak about the legislation to his fellow Ministers? Why did he not speak in the Parliament on the bill? These are questions that go to the integrity and judgement of the Leader of the Opposition. These are questions that he must answer and has not yet answered. These are reasonable questions and it is time for the Leader of the Opposition to come clean. Perhaps the member for Toongabbie can help us. Did the member for Blacktown tell him about the $3 million?

Mr Paul Lynch: Point of order: Speaker Ellis ruled that supplementary or amplified answers to clarify replies given previously must be brief. That was reiterated in 1972. Speaker Ellis was a member of the Liberal Party. It is clearly an abuse of the standing orders and contrary to the previous rulings to allow this absurdity to proceed.

The SPEAKER: Order! "Brief" is a fairly subjective word; to some it could mean half an hour and to others it could mean three minutes. I will hear further from the Attorney General but I ask him to be as brief as possible. We have more work to do this afternoon.

Mr GREG SMITH: Given that there was legislation relating to that individual surely the member for Toongabbie would have wanted to know about the bribe offer. What about other former Ministers who are still here such as the member for Canterbury, the member for Maroubra, the member for Marrickville and the member for Auburn? Do they recall the now Leader of the Opposition excusing himself from discussions about the legislation? This is about integrity, transparency and honesty. It is time that John Robertson displayed some of those qualities, because he has shown none to date.

The SPEAKER: Order! The Leader of the Opposition will cease interjecting or he will be removed from the Chamber.

Mr GREG SMITH: Having regard to section 316 of the Crimes Act, does the Leader of the Opposition not feel compelled to attend the Central detectives and give a record of interview about his explanation for not reporting a very serious crime?

GLEBE PUBLIC SCHOOL FUNDING

Mr ADRIAN PICCOLI: I refer to the question asked by the member for Balmain, who is no longer in the Chamber, about Aboriginal funding at Glebe Public School. I can advise the House that next year the Balmain electorate will receive an increase of $68,116 in funding for Aboriginal students, including an increase of $1,479 for Aboriginal students at Glebe Public School.

Question time concluded at 3.25 p.m.

INDUSTRIAL RELATIONS AMENDMENT (INDUSTRIAL COURT) BILL 2013

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

PETITIONS

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

Oxford Street Traffic Arrangements

Petition requesting the removal of the clearway and introduction of a 40 kilometre per hour speed limit in Oxford Street, received from **Mr Alex Greenwich**.

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 **Mr Alex Greenwich**.

Pet Shops

Petition opposing the sale of animals in pet shops, received from **Mr Alex Greenwich**.

Pig-dog Hunting Ban

Petition requesting the banning of pig-dog hunting in New South Wales, received from **Mr Alex Greenwich**.

Duck Hunting

Petition requesting retention of the longstanding ban on duck hunting, received from **Mr Alex Greenwich**.

Inner-city Social Housing

Petition requesting the retention and proper maintenance of inner-city public housing stock, received from **Mr Alex Greenwich**.

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

Vocational Education and Training Fees

Petition requesting that the Government maintain vocational education and training fees at their current level for concession students and Outreach and Access courses, received from **Mr John Robertson**.

The Clerk announced that the following Minister had lodged a response to a petition signed by more than 500 persons:

The Hon. Andrew Stoner— Crown Reserve Trust Lands Lot 490, Kingscliff—lodged 20 August 2013 (Mr Geoff Provest)

BUSINESS OF THE HOUSE

Reordering of General Business

Mr JOHN WILLIAMS (Murray-Darling) [3.27 p.m.]: I move:

> That the General Business Notice of Motion (General Notice) given by me this day (Bondi Attack) have precedence on Thursday 31 October 2013.

I advise the House that the motion I moved stated that this House notes the assault on a group of Jewish people in Bondi last week and condemns any acts of racism. This matter is a priority and members of this House should be concerned by it. Even more concerning is that commentary in the newspapers since the attack has revealed

actions that have been taken primarily through the Boycott, Divestment and Sanctions [BDS] campaign against Max Brenner. All members of this House should be concerned by that. When one looks closely one finds that The Greens members have been intrinsically linked to that action. Prior to the last election, Marrickville councillor Fiona Byrne moved a motion in her council to adopt the international Boycott, Divestment and Sanctions action. That was a real concern for every member of this House. Premier Barry O'Farrell took the appropriate action and condemned the council for even considering the adoption of the motion.

Immediately after that The Greens went into denial and we heard Christine Milne disassociate herself from that action. If that councillor was a member of the Labor Party or the Liberal Party, they would no longer be a member of that party. Where is Fiona Byrne today? Fiona Byrne is a member of The Greens political party and endorsed this action. The Greens should take a look at themselves and decide whether they are in or out. If they want to progress that type of action, despite the fallout from media interpretation of that action, we have real concern about The Greens continuing to bring international crises in the Middle East to this House. The Greens are quite happy to support any action taken against the state of Israel and then go into denial. The grassroots members of The Greens should remove those who boycott Israel from the membership of their political party. If what is being said in the public arena is correct, grassroots members of The Greens should disassociate themselves from those actions, which are driving the type of attitude we do not need in this country.

Mr MICHAEL DALEY (Maroubra) [3.30 p.m.]: The Opposition supports the motion.

[*Interruption*]

The SPEAKER: Order! The member for Maroubra is entitled to a three-minute reply.

Mr MICHAEL DALEY: Thank you, Madam Speaker. The motion states:

> That this House notes the alleged assault on a group of Jewish people in Bondi last week and condemns any form of racism in Australia.

The second limb of the motion is axiomatic: All members of this House condemn all acts of racism. Therefore, it follows that any act of violence perpetrated on one or more people because of their faith or their heritage should be condemned by this House. Tomorrow the Opposition will join with the Government not so much in debate but in discussion of the motion. However, we will confine our remarks to the acts of violence that happened to the Jewish people in Bondi last week.

Mr John Williams: What about The Greens?

Mr MICHAEL DALEY: If Government members led by the member for Murray-Darling want to expand on that to take in curious other matters, that is a matter for them.

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

Motion agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Motions Accorded Priority

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [3.33 p.m.]: I move:

> That standing and sessional orders be suspended to permit the consideration forthwith of the notice of motion accorded priority given by the member for Monaro, followed by the notice of motion accorded priority given by the member for Blacktown.

The Government's view is that both motions moved today which sought to be accorded priority deserve to be given priority. To achieve that, I will suspend standing orders to allow the motion to be moved by the Government to be dealt with, followed by the motion of the member for Blacktown.

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

Motion agreed to.

WORKERS COMPENSATION REFORMS

Motion Accorded Priority

Mr JOHN BARILARO (Monaro) [3.36 p.m.]: I move:

That this House notes:

(1) As a result of the Government's reforms to workers compensation New South Wales businesses will receive an average 12.5 per cent rate reduction in 2013 premium cycle, returning $330 million to help grow the economy.

(2) Without the reforms, premiums would have been increased by 28 per cent and cost an estimated 12,600 jobs.

(3) The reforms have delivered a fairer system with more generous payments to people severely injured at work and incentives for businesses to improve workplace safety.

(4) The Opposition has committed to ripping up these reforms, increasing the cost of doing business and destroying jobs across New South Wales.

We know the important role played by the private sector in creating jobs not only in the State of New South Wales but also right across this great country. The private sector creates opportunity as well as a strong future economy. We know of the tough conditions being faced by business right now. Only yesterday Opposition members were banging on about private sector jobs being lost in Bathurst and Orange. At that time the Opposition called on the Government to do more to support those businesses. This Government's workers compensation reforms did exactly that, but throughout the debate Opposition members never supported those reforms or savings measures that would have reduced red tape and green tape and costs that are imposed on small business. Add to that the previous Federal Labor Government's mining tax and the carbon tax, and Labor is making conditions very tough for businesses in this country, especially as Australia is part of the global economy and businesses have to compete in a global marketplace.

This Government's reforms have resulted in the worst workers compensation scheme of all time hitting the black for the first time since 2008. The scheme is now running a $309 million surplus, which not only reduces premiums for businesses but also pays more generous compensation for seriously injured workers and results in a reduction in the number of claims. The scheme now has the highest return-to-work rate in the country of 88 per cent. The Liberals and Nationals Government's reforms also have protected 12,600 jobs that were in jeopardy, as identified by industry. This latest round of reforms will mean that 200,000 employers across 376 industries will benefit in savings of $130 million this year or an average 5 per cent reduction in their workers compensation premium on top of the 7.5 per cent reduction they received earlier this year. That means no employer will receive an increased premium in 2013, which is good for business, good for jobs and good for the State's economy.

Let me examine the track record of members opposite. Of course they have been opposing the reforms of the O'Farrell-Stoner Government in both Houses. They are not supporting business. Those who claim to be champions of the workers are not supporting reforms that will result in severely injured workers receiving greater compensation, and rightly so. But more importantly, through this Government's incentives and reforms, a safer environment is being provided for employees. That has been achieved by the scheme going quickly into surplus. Premiums have been reduced and compensation payments made to severely injured workers have increased. We know about the track record of Opposition members. When the member for Maroubra was the Minister and was presented with a report by the previous chairman of WorkCover, Mr McCarthy, what did he do? He shoved the report in the bottom drawer of his desk—not interested. He put his head in the sand. What did the chairman have to say about that? The chairman of WorkCover at that time, Mr McCarthy, referred in a *Sun-Herald* article to the scheme's investments and the neglect of the former Labor finance Ministers—we all remember the great Joe Tripodi—but the member for Maroubra, Mr Michael Daley, left the scheme's finances in a parlous state. Mr McCarthy stated:

> They just weren't interested and did not listen to my warnings. No one since John Della Bosca has pulled the levers at all.

Mr McCarthy also said that he lost patience with having his warnings ignored. He detailed in his resignation letter his continued frustration in getting successive Ministers to heed the board's warning. Earlier today we heard from the Premier about the Leader of the Opposition's track record. According to the 2006-07 report of the WorkCover executive, the Leader of the Opposition turned up to zero meetings on behalf of the workers of the State. This is another instance of the Leader of the Opposition claiming to be the champion of workers. Labor members should hang their heads in shame.

Mr MICHAEL DALEY (Maroubra) [3.41 p.m.]: Government members say that because they have reduced workers compensation premiums, this is a terrific day—as though that is an unprecedented event in New South Wales. I remind Government members that on one of the many occasions I addressed the House in relation to workers compensation, I said that as at 30 October 2011 premiums had been discounted in the previous five years on seven occasions, including once by me as Minister, to the tune collectively of 33 per cent. Members of the Government crow about unprecedented events such as the 12.5 per cent reduction in workers compensation premiums—the Labor Government was alive to the fact that premiums needed to increase and decrease in accordance with the times and the state of the fund.

I will tell members who will not think this is a good day. It is not a good day for any of the 40,000 injured people who cannot return to work or who can return to work but who need care and support to do so. That is the purpose of any insurance scheme and it certainly ought to be the purpose of a workers compensation scheme. A workers compensation scheme should function on the basis that if a worker is injured at work, through no fault of their own, it will cover the cost of care and support for that person for as long as it is required. That is the principle that should underpin a workers compensation scheme, but that no longer happens in New South Wales.

The Government wants a budget surplus and it achieves that by imposing cuts—although that does not match its narrative. That is the simple, brutal method the Government has used to achieve a scheme surplus. Of course, it is always possible to achieve an insurance scheme surplus by cutting benefits. If one collects premiums on the one hand, and cuts benefits on the other, it is not the work of mathematical genius to realise that it will return to surplus. The question is what will happen as a result of those cuts. The result is embodied in one of the many letters I have received on this issue. A letter from a lady from Cootamundra about whom I have spoken in the House previously states:

> I am extremely concerned about the new changes to WorkCover reforms.
>
> I started working at an Ageing Disability Home Care residential group home in Cootamundra in 1991 and on 14 December 2002 I had a fall at work and injured my back and right shoulder but I continued to work.

The lady goes on to say that she reinjured her back and right shoulder and was off work until 2003. She returned to the position she had held previously but no longer had the physical capability to undertake the work required. That is not a good position to be in. She was stood down when she requested that she be moved to another group home to undertake lighter duties. Time went by and she was ultimately unable to work because of her injuries. In her words, she was medically retired in 2007, which means she was not working. Several rehabilitation companies worked on her case under the former scheme. She states:

> I was told by my solicitor that I was entitled to be paid until I was 66 years of age.

She says that she received a letter on 5 May 2009 telling her that she would receive no further benefits after 5 July 2013. She goes on to say:

> I live in a small community, and because of my medical restrictions and age it is impossible to find work. My husband is on a low income and we have relied on this income to make ends meet and this is so, so unfair, not only for me but for all injured workers. This is discrimination.
>
> I am 61 years of age. This is extremely disturbing to me, and my anxiety attacks and depression are causing my family great concern.
>
> I would just like to know how on earth we are going to financially survive.

Those opposite should go to Cootamundra and tell that lady that this is a "great day".

Mr JOHN SIDOTI (Drummoyne) [3.46 p.m.]: When the Coalition came to office in 2011, the State's workers compensation scheme was lurching towards a $5 billion deficit—more than double the previous worst case scenario. As the member for Monaro said, the facts came to light when the then chairman of WorkCover, Greg McCarthy, resigned, and said of the member for Maroubra and the former member for Fairfield that "they just weren't interested and didn't listen to my warnings".

The O'Farrell Government has made tough, often unpopular but fair decisions in the interests of the State's finances and of severely injured workers by providing a sustainable scheme. I welcomed the Premier and the Minister for Finance and Services to my electorate this morning to announce a further reduction in

WorkCover premiums and confirmed that the scheme is now back in the black for the first time since 2008. There was a 5 per cent premium reduction early this year and a further 7.51 per cent reduction, saving more than $130 million a year. That means that 200,000 employers will benefit.

I know that Aldridge Traffic Signals in my electorate in the suburb of Rhodes will now be able to employ more people and, more importantly, spend more money on workplace safety initiatives. The reductions in premiums show that the Government is committed to support jobs, jobs, jobs—growing the economy, delivering a fairer system and providing more money to severely injured workers. Those opposite ran the scheme into the ground; we are cleaning up the mess left by Labor. It is hypocritical for Labor members to complain about changes to the scheme. They have no credibility. Labor failed the worker; Labor failed the employer; Labor failed the electorate—fail, fail, fail.

The DEPUTY-SPEAKER (Mr Thomas George): Order! The member for Wollongong will have an opportunity to make a contribution to the debate.

Mr JOHN SIDOTI: What has the member for Maroubra got against growing the economy? What has the member for Maroubra got against protecting our most seriously injured workers? What has the member for Maroubra got against businesses in my electorate? What have those opposite got against jobs? The reforms to WorkCover are all about providing better support for injured workers. Without the New South Wales Government's reforms to the WorkCover scheme, 12,600 jobs would have been at risk and premiums were set to increase by 28 per cent. The Government is looking after injured workers. It is lowering premiums and, as a result, New South Wales has the best return-to-work rate in the country.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I remind the member for Maroubra that he is fortunate to be back in the House. The member for Kiama will come to order.

Ms NOREEN HAY (Wollongong) [3.49 p.m.]: In the past few days the members for Monaro and Drummoyne have been keen to defend the Government's actions—actions that were never foreshadowed during the election campaign. Why were they not keen to tell injured workers about how they would be made to pay for the Government's premium reductions? They had nothing to say then and they have nothing to say now. Barry O'Farrell has ripped away the safety net that protected workers who are victims of workplace injuries. The best way to reduce premiums is to reduce workplace injuries, and the best way to do that is for employers to provide safe workplaces, not to make the injured workers pay for the premiums. Those opposite have left injured workers to meet the costs of ongoing medical treatment resulting from a workplace injury. This includes costs such as physiotherapy, ongoing surgery, prosthetics and hearing aids. Members opposite care zilch about injured workers.

Compensation for lost income due to workplace injury has also been reduced and will be cut off for most workers after 2½ years. Let us hope it is not the member opposite or one of his loved ones who suffers a workplace injury and is denied compensation. Almost all injured workers will have their payments ceased after five years, even if they are totally unfit for work due to a workplace injury. Workplace inspectors once visited workplaces and could point out the careless and reckless attitude of many employers whose employees were seriously injured on almost a daily basis. Injured workers whose claims are refused by insurance companies now are forced to pay the legal costs of challenging that decision, even if the court upholds their claim. Not every worker can afford legal costs. We need a fair and just system that compensates workers injured in the workplace.

Mr Gareth Ward: Point of order—

The DEPUTY-SPEAKER (Mr Thomas George): Order! The member for Wollongong interjected continually during the previous speech. It is no surprise that she is receiving the same treatment during her contribution.

Mr Gareth Ward: I ask that the member for Wollongong direct her comments through the Chair rather than across the table at members opposite.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I uphold the point of order.

Mr Barry Collier: Sit down you mug.

Mr Gareth Ward: I ask the member for Miranda to withdraw that comment. It was unparliamentary.

Mr Barry Collier: No, I refuse.

The DEPUTY-SPEAKER (Mr Thomas George): Order! Does the member for Kiama have a further point of order?

Mr Gareth Ward: I ask the member for Miranda to withdraw the defamatory statement he just made. Clearly, he has not learnt any manners during his 18-month sabbatical.

Mr Barry Collier: You withdraw your disgraceful statements to firefighters in the Miranda electorate.

Mr Gareth Ward: What statements might they be?

The DEPUTY-SPEAKER (Mr Thomas George): Order! Members will come to order.

Ms NOREEN HAY: Get outside with him.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I direct the member for Wollongong to remove herself from the Chamber for a period of 30 minutes.

[*Pursuant to sessional order the member for Wollongong left the Chamber at 3.52 p.m.*]

Mr JOHN BARILARO (Monaro) [3.52 p.m.], in reply: It is a shame that the debate has ended this way. Today the member for Maroubra re-enacted his infamous and shabby performance during the WorkCover debate when he was kicked out of the Chamber at 2.30 a.m. He does not deny it. I remember reading an article in the *Daily Telegraph* stating that he did not deny the accusation that he may have been intoxicated during that debate.

Mr Michael Daley: Point of order: The member is making a silly contribution. If he wants me to deny it in the House again, I will. And I do.

The DEPUTY-SPEAKER (Mr Thomas George): Order! There is no point of order.

Mr JOHN BARILARO: The reforms that the O'Farrell-Stoner Government has implemented are designed to protect the injured worker. We have heard all the stories. Injured workers can be compensated and protected no better than by having a viable workers compensation scheme that actually has funds. Today the scheme has a surplus of $309 million compared to a deficit of $4.1 billion and rising despite the fact that the chairman of the board, Mr McCarthy, and other experts in the field told the member for Maroubra, who was the responsible Minister, and previous Labor Ministers that the fund had serious issues. We need a long-term workers compensation system that will protect injured workers. More importantly, the system should be proactive in providing up-front incentives that allow businesses to ensure the work environment is safe. Those opposite keep lecturing the Government about worker safety. I come from a small business in the building industry. We want a safe environment for our employees. A business director or owner would not go to work in an environment that was unsafe for him or his workers.

Members opposite have made disgraceful accusations that businesses do not understand the importance of workplace safety and that this reformed system is only about business premiums and not injured workers. Once again that demonstrates that Labor Party members have no idea about the important role of businesses in the community. More importantly, they have no idea about how businesses protect their workers because they are part of the family that makes a small business successful. Many of us have good track records in dealing with our employees. This debate reminds us that those opposite do not get it. We know the track record of the Leader of the Opposition: he missed every meeting in 2006-07 when he was a member of the WorkCover executive board. Clearly, he did not care then; nor does he care now. Members opposite are playing politics again with business, the community and injured workers.

The O'Farrell-Stoner Government's workers compensation reforms are about protecting the worker while making sure that businesses survive in a tough environment and global market. That is exactly what we have done. Premiums were reduced from 7.5 per cent to 5 per cent, which produced $330 million for business to reinvest in the community, in jobs and in the economy. Having a strong economy is good for business, families,

future generations, and protecting jobs. If we had not implemented these reforms this State would have lost 12,600 jobs. The Leader of the Opposition has said consistently that his first act if elected would be to repeal this decision. That means he will rip up 12,600 jobs in New South Wales. [*Time expired*.]

Question—That the motion be agreed to—put.

The House divided.

Ayes, 63

Mr Anderson	Mr Gee	Mr Rohan
Mr Aplin	Ms Gibbons	Mr Rowell
Mr Ayres	Mr Grant	Mrs Sage
Mr Baird	Mr Gulaptis	Mr Sidoti
Mr Barilaro	Mr Hazzard	Mrs Skinner
Mr Bassett	Ms Hodgkinson	Mr Smith
Mr Baumann	Mr Holstein	Mr Souris
Ms Berejiklian	Mr Humphries	Mr Speakman
Mr Bromhead	Mr Issa	Mr Spence
Mr Brookes	Mr Kean	Mr Stokes
Mr Casuscelli	Dr Lee	Mr Stoner
Mr Conolly	Mr Marshall	Mr Toole
Mr Constance	Mr Notley-Smith	Ms Upton
Mr Cornwell	Mr O'Dea	Mr Ward
Mr Coure	Mr O'Farrell	Mr Webber
Mrs Davies	Mr Owen	Mr R. C. Williams
Mr Dominello	Mr Page	Mrs Williams
Mr Doyle	Ms Parker	
Mr Edwards	Mr Patterson	
Mr Evans	Mr Perrottet	*Tellers,*
Mr Flowers	Mr Provest	Mr Maguire
Mr Fraser	Mr Roberts	Mr J. D. Williams

Noes, 23

Mr Barr	Ms Hornery	Mr Rees
Ms Burney	Mr Lynch	Mr Robertson
Ms Burton	Dr McDonald	Ms Tebbutt
Mr Collier	Ms Mihailuk	Ms Watson
Mr Daley	Mr Park	Mr Zangari
Mr Furolo	Mr Parker	*Tellers,*
Mr Greenwich	Mrs Perry	Mr Amery
Mr Hoenig	Mr Piper	Mr Lalich

Question resolved in the affirmative.

Motion agreed to.

BLUE MOUNTAINS BUSHFIRES

Motion Accorded Priority

Mr JOHN ROBERTSON (Blacktown—Leader of the Opposition) [4.05 p.m.]: I move:

That this House:

(1) Joins with the vast majority of residents of the Blue Mountains who are calling on the Federal Government to restore the eligibility requirements for receiving the Australian Government Disaster Recovery Payments.

(2) Notes the unfortunate timing of the changes which were made on the very day bushfires began devastating the communities of the Blue Mountains.

This motion addresses the issues that are confronting the residents of the Blue Mountains who have suffered a great deal in recent weeks. We have dealt with a series of discussions and motions about this issue. The Premier has reported on the bushfires and the significant loss that has occurred as a result of these tragic circumstances in the Blue Mountains. We have spent a lot of time talking about the great work of the many volunteers who have spent time protecting houses, dealing with grieving families and providing assistance for those who have lost so much in the Blue Mountains and other areas such as Lithgow, Catherine Hill Bay, Caves Beach and Swansea.

This motion addresses the changes that have been made by the Abbott Government to people's rights to access emergency disaster recovery payments. These payments are provided to people who have found themselves in the most difficult of circumstances and who deserve all the support they can get. They deserve to be treated with empathy and dignity and, most significantly, given the support that they need to get on with their lives. The personal assistant to the Speaker of this House has been directly affected by the bushfires. This motion also addresses the fact that the Abbott Government has changed the arrangements for people to access government disaster recovery payments that are available to individuals and households who have been adversely affected by the bushfires. These are payments of $1,000 for every eligible adult and $400 for every eligible child if one or more of the following conditions have been experienced:

- The person is seriously injured; or
- The person is an immediate family member of an Australian who is killed (as a direct result of the bushfires); or
- The person's principal place of residence has been destroyed or has sustained major damage; or
- The person is the principal carer of a dependent child who has experienced any of the above.

The Government has restricted people's rights to access these payments. Previously if people were affected in these circumstances they would have been given access to these payments under conditions such as if a person is unable to gain access to their principal place of residence for at least 24 hours because access to the residence is cut off; if they are unable to leave a place affected by the disaster; if as a result of the disaster the person's principal place of residence was without a particular utility service for a continuous period of 48 hours; or if the person is the principal carer of a child to whom one or two of the above matters apply.

Instead of showing generosity to people who have suffered from the bushfires in New South Wales, the Abbott Government has imposed restrictions on adults receiving $1,000 or a child receiving $400. It is not a lot of money, but it would provide some assistance to those who deserve it in the most difficult of circumstances. I do not believe they are circumstances that many of us in this Chamber could comprehend. These people have effectively lost almost everything if not everything. At the very least they deserve those existing entitlements.

When Joe Hockey, the Federal Treasurer, said, "Everything is on the table", I do not think anyone would have believed he was talking about the bushfire emergency disaster recovery payments that people are seeking as a result of those tragic circumstances that have occurred in recent weeks in the Blue Mountains, Lithgow, Catherine Hill Bay, Nelson Bay and Caves Beach. The Federal Government has no empathy and was hasty to cut back payments to those people who have suffered more than most. People are now being denied access to the disaster recovery allowance, and that is why this motion should be supported. This House should support this motion wholeheartedly.

Mr ANTHONY ROBERTS (Lane Cove—Minister for Fair Trading) [4.10 p.m.]: The New South Wales Opposition should know better than to politicise an issue that has tragically affected the lives of many residents across New South Wales.

The DEPUTY-SPEAKER (Mr Thomas George): Order! The Leader of the Opposition was heard in silence. The member for Lane Cove will also be heard in silence.

Mr ANTHONY ROBERTS: This is a time for members of Parliament to band together to support these communities and the work that is performed by the volunteers and emergency services personnel who have worked tirelessly to assist residents in the fire-affected areas in their time of need. These men and women are the recent heroes of New South Wales. They are ordinary citizens who do extraordinary things in times of crisis. My wife is a member of the State Emergency Service and my brother-in-law is a member of the Rural Fire Service. I know more than most what it is like to receive a call in the middle of the night that results in your loved ones going out in a time of danger—whether it be a storm, flood or fire—to assist others. You pray for

their safe return. Similarly, I am sure that all members in this place would join me in expressing support for those who fell victim to the recent fires in New South Wales. In response to the motion of the member for Blacktown, I move:

> That the motion be amended by leaving out all words after "That" with a view to inserting instead:
>
> "this House expresses support for all victims of the recent bushfires in New South Wales and for all volunteers and emergency services involved in assisting residents in fire areas."

The Government introduced a vast range of measures to support the people and communities across New South Wales affected by the recent bushfires, including those in the Blue Mountains. This support is in addition to the considerable support available through Commonwealth Government programs, as well as support services and facilities provided by charities and not-for-profit organisations. I am advised that Commonwealth support was available within 24 hours of the declaration of this disaster. Contrary to the statements by those opposite, the Australian Government disaster recovery payment has flexible eligibility criteria. It has always had flexible eligibility criteria, recognising that different disaster events have different impacts on communities. This allows governments, present and past, to tailor their response to best meet the needs of each affected community.

I acknowledge the efforts of the Premier and the Minister for Police and Emergency Services, who spent time with emergency services personnel and volunteers, as well as residents in those communities, to best manage the situation at hand. The New South Wales Government recognises the invaluable work performed by those who give up their time to support affected communities. These outstanding Australians deserve the collective support of all members. When natural disasters strike, true leaders rise to meet the difficult circumstances. We saw the Premier and his team, together with the Minister for Police and Emergency Services, join people like Shane Fitzsimmons. Indeed, that great leadership group provided an important whole-of-government approach during this difficult time. It takes courage beyond belief to work hours on end to fight such devastating fires. These heroic men and women not only protected people's property and possessions but also, and most importantly, they saved people's lives.

[*Interruption*]

Mr ANTHONY ROBERTS: This is an important motion. I sat silently as the Leader of the Opposition made his contribution. I ask that those sitting opposite refrain from talking while I make mine.

The DEPUTY-SPEAKER (Mr Thomas George): Order! Members will come to order!

Mr ANTHONY ROBERTS: Sadly, two New South Wales residents tragically lost their lives in the recent disaster: Walter Linder, 63 years old; and pilot David Black, 43 years old. I offer the condolences of this House to their families and loved ones. Our thoughts and prayers are with them at this time. I quote a stanza from *Recessional* by Rudyard Kipling:

> The tumult and the shouting dies;
> The Captains and the Kings depart;
> Still stands Thine ancient sacrifice,
> An humble and a contrite heart.
> Lord God of Hosts, be with us yet,
> Lest we forget—lest we forget!

As we work together to rebuild our communities we should remember those who made the ultimate sacrifice in protecting those communities.

Mr Michael Daley: Point of order: Both paragraphs of the original motion concern the eligibility requirements for receiving the Australian Government disaster recovery payment. As worthy as the amendment moved by the member for Lane Cove may be, it does not fall within the scope of the original motion and should be ruled out of order.

The DEPUTY-SPEAKER (Mr Thomas George): Order! The amendment is relevant to the original motion. The amendment states that:

> "this House expresses support for all victims of the recent bushfires in New South Wales and for all volunteers and emergency services involved in assisting residents in fire areas."

Mr Michael Daley: To the point of order: A summation of the principle I am arguing appears on page 151 of *Legislative Assembly Practice, Procedure and Privilege.* It states:

> As a general rule it may be said that amendments are relevant and as such are admissible if they are on the same subject matter as the original matter.

This amendment is clearly not on the same subject matter as the original motion. The original motion concerns eligibility requirements for the Australian Government disaster recovery payment. The only thing the original motion and the amendment have in common is the broad subject matter of bushfires. One is a motion specifically about financial assistance, the other is not.

Mr Anthony Roberts: To the point of order: The House is discussing the tragedy of bushfire and the protection of communities. My amendment is in order.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I will accept the amendment to the motion. There is no point of order.

Mr NATHAN REES (Toongabbie) [4.15 p.m.]: Loath as I am to get between my learned friends on this one, I speak in support of the original motion of the member for Blacktown and against the amendment of the member for Lane Cove. I have lived in the Blue Mountains. I have lived through bushfires there and I know how distressing they are for communities. The motion of the member for Blacktown notes that the vast majority of residents in the Blue Mountains are calling for the Federal Government to restore the eligibility requirements for receiving the Australian Government disaster recovery payment. It is particularly galling that the Federal Government, which is clearly struggling with the transition from opposition to government, has increased the eligibility requirements and thereby diminished the assistance that can be provided to people.

This is the Federal Government that acknowledged it started the fire—the Department of Defence has acknowledged that. But, as far as I am aware, it is yet to make reparations to the New South Wales Government, which would clearly be the right thing to do. The Federal Government's first month in office has been characterised by excellent Fairfax coverage of entitlement rorts. Its own Prime Minister has had sporting trips paid for by taxpayers; its senior Cabinet Ministers, including the Attorney General, have had trips to weddings paid for by taxpayers; and Government members have had trips to Cairns to investigate investment properties paid for by taxpayers. And at the same time, it is ripping the guts out of assistance payments for people affected by bushfires in the Blue Mountains, and elsewhere around Australia no doubt.

On the one hand, Joe Hockey is happy to accommodate the rorts of his colleagues but, on the other hand, he is ripping away those entitlements for people who have done nothing wrong; they have simply chosen to live in one of the most beautiful parts of the world, which is also World Heritage listed. The timing of the changes, on the day of the bushfires, no doubt accentuated the impact for the people involved. Hundreds of homes have been lost in the Blue Mountains. Indeed, people in our parliamentary precinct have been affected severely. I know the member for Blue Mountains has spent a great deal of time in her community in recent weeks, and I pay tribute to her for her efforts. But the efforts of the Rural Fire Service and others like the member for Blue Mountains and the intentions of the member for Lane Cove are diminished by a Federal Government that simply will not come to the party and do the right thing. A common-sense approach will fix this. Joe Hockey or the Prime Minister could fix it tomorrow, and they ought to do so.

Mrs ROZA SAGE (Blue Mountains) [4.18 p.m.]: I support the amendment to the motion moved by the member for Lane Cove. I would like to correct a small technical issue raised by the member for Toongabbie—that is, the fires in Springwood, Winmalee, Yellow Rock and Mount Victoria were separate to the one in Lithgow. They also started differently. As the member for Blue Mountains, and having been involved quite intimately with those affected by the fires, I feel that I can talk about what was happening in the Blue Mountains during the recent bushfire disaster. There are still fires burning. Fortunately, they are no longer impinging on any properties. It was absolute hell for more than a week during the bushfires and communities have been traumatised. We saw headlines about the bushfires in the national and international media. We lost 202 homes in the Blue Mountains, and 193 of them were in the areas of Winmalee, Yellow Rock and Springwood.

I felt the impact and saw the fire trucks at the bottom of my road. I know the anxiety that people there have felt but I cannot really imagine the absolute grief of those who have lost their houses. I have been part of that community for many decades and I share their grief and send my wholehearted sympathy to all of them. The Federal member for Macquarie, Louise Markus, has also been very active in supporting the Blue Mountains community. Now that the worst is over, the New South Wales and Federal governments are making a significant contribution through their disaster recovery effort; and that is where I am focusing my efforts as well. My focus is on helping Blue Mountains residents to heal and recover.

The New South Wales Government and Federal Government funded disaster recovery centres, like the evacuation centres before them, are doing a magnificent job supporting residents. I have received a lot of positive feedback about the centres. They are one-stop shops, with agencies such as Family and Community Services; the New South Wales Disaster Welfare Services; Centrelink; Legal Aid NSW; NSW Fair Trading; NSW Health; counselling services; insurance companies; Telstra; and volunteers from the Salvation Army, Australian Red Cross and the Springwood Winmalee Presbyterian Church, which is where the recovery centre is accommodated. So the community is banding together during this very stressful and traumatic time. I thank all the emergency services workers, led by the NSW Rural Fire Service. I can vouch for their efforts firsthand because I went to the Winmalee and Faulconbridge fire stations, where the control centres were, and saw firsthand the magnificent job done by all the fire and emergency services personnel.

Mr JOHN ROBERTSON (Blacktown—Leader of the Opposition) [4.22 p.m.], in reply: It is sad to see this attempt by those opposite to hide behind the great work of the NSW Rural Fire Service and other volunteers as a means of avoiding standing up for the people of the Blue Mountains by asking their colleagues in Canberra to do the right thing. There is no question on either side of this House about the great work of the volunteers. Members debated two motions accorded priority last week and were unanimous in singing the praises—and rightly so—of those volunteers. The motion I have moved today calls on this House to urge the Federal Government do the right thing by the residents of the Blue Mountains.

Sadly, the residents of the Blue Mountains today witnessed their member of Parliament using the Government's amendment as an excuse to avoid having to stand up and support the motion—saying that she will do everything she can to get them what they would have otherwise been entitled to had the Abbott Government not limited and cut people's access to these payments. I have sat in this Chamber on many occasions and seen some pretty extraordinary things. People go to great lengths to avoid standing up for their constituents, but I have to say that this is up there with the best of them. To hide behind the heroes of the bushfires and avoid doing the right thing by your constituents—

Mr Anthony Roberts: Point of order: Speaking about extraordinary things, never before have I seen someone attempt to politicise such a disastrous event in New South Wales.

The DEPUTY-SPEAKER (Mr Thomas George): Order! There is no point of order.

Mr JOHN ROBERTSON: This motion is prompted by the politics of the Federal Government and its miserable decision to cut people's right to access these benefits. If those opposite were fair dinkum about standing up for people's rights and giving them the assistance they deserve they would support the motion that I moved in this Chamber. Instead Government members have talked about the heroes of the bushfires to avoid having to stand up and do the right thing by their constituents. These are payments that people should be given. These are payments that would give people a little assistance, which they need, to deal with extraordinary circumstances. Those circumstances are not being addressed by the Abbott Government, and today the people affected have not been offered any assistance by those opposite either.

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

Amendment agreed to.

Motion as amended agreed to.

The DEPUTY-SPEAKER (Mr Thomas George): Order! It being after 4.00 p.m., Government business will be proceeded with.

LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT (ARREST WITHOUT WARRANT) BILL 2013

Bill introduced on motion by Mr Barry O'Farrell, read a first time and printed.

Second Reading

Mr BARRY O'FARRELL (Ku-ring-gai—Premier, and Minister for Western Sydney) [4.27 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Law Enforcement (Powers and Responsibilities) Act 2002 to ensure that police have clear, simple and effective powers of arrest to protect the community. The Law Enforcement

(Powers and Responsibilities) Act governs the day-to-day interactions of more than 16,000 police officers with the people of New South Wales. It is critical that the police have the powers they need to get on with their job and keep the community safe. Less than three weeks ago, I asked former police Minister the Hon. Paul Whelan and former shadow Attorney General Mr Andrew Tink to provide the Government with urgent advice to finalise the statutory review of the Law Enforcement (Powers and Responsibilities) Act. I asked them to give immediate priority to addressing police concerns with section 99 of the Act, which sets out police powers to arrest without a warrant. Police have raised concerns that section 99 is complex and difficult to apply. This has resulted in offenders escaping conviction and at times large police payouts for wrongful arrests, even where the arrest is made by a police officer in good faith.

The job of front-line police is already hard enough, without being made harder by having to deal with legal complexities. The legislation seeks to "uncuff" the police so they can handcuff criminals. Concerns with section 99 were also raised in a recent decision by Judge Conlon of the District Court. In his judgement, Judge Conlon argued that section 99 was in urgent need of amendment. He stated:

> The community would be entitled to be concerned that the provisions of this section do not take account of the extreme variables that confront police officers in dealing with aggressive, violent situations, especially when persons are under the influence of drugs and alcohol.

Judge Conlon went on to state:

> This section needs to be re-legislated by persons who have a realistic appreciation of the many volatile situations in which it is desirable for arrest to be effected by police officers.

Mr Tink and Mr Whelan considered all these problems and challenges in preparing their report on section 99. I believe, in Judge Conlon's terms, they have a realistic appreciation of the challenges that confront our police officers. As part of their review, Mr Tink and Mr Whelan met with senior members of the NSW Police Force, the Ministry for Police and Emergency Services, and the Department of Attorney General and Justice. Their discussions included senior operational police to ensure the proposed changes would deliver improvements at the front line of community policing.

Mr Tink and Mr Whelan considered police powers to arrest without a warrant in all other Australian jurisdictions, as well as those in Britain. Their considerations were also influenced by a 2012 Bureau of Crime Statistics and Research report on the effect of arrest and imprisonment on crime. That report assessed the extent to which the probability of arrest, the probability of imprisonment and imprisonment duration impacted on crime rates. Importantly, the Bureau of Crime Statistics and Research report found the biggest deterrent to criminals is the risk of arrest. Mr Tink and Mr Whelan have now delivered their report and the New South Wales Government considers that their recommendations provide a common-sense way forward on this matter.

The reforms they propose, which are outlined in this bill, can give the community confidence that police will have the powers they need to keep the peace across the varying communities of New South Wales. I am pleased to say that these reforms have the full support of the New South Wales Commissioner of Police, Andrew Scipione. There are a number of important things to note about the proposed amendments to section 99. The bill will clarify that police can arrest without a warrant for any offence they reasonably suspect a person is committing or has committed. The reviewers found that poor drafting had resulted in differing interpretations on this matter, with some suggestions that police could only arrest without a warrant for an offence committed in the past if it was a serious indictable offence.

New section 99 (1) (a) makes it abundantly clear that police can arrest without a warrant for any offence, whether in the act of being committed or having been committed in the past. Having formed a reasonable suspicion that an offence is being or has been committed, under new section 99 (1) (b) a police officer can place a person under arrest if satisfied it is reasonably necessary to do so for one of the reasons set out in the section. New section 99 (1) (b) replicates and simplifies the existing reasons for arrest contained in section 99 (3) of the Act. It also introduces new reasons to arrest without a warrant that better reflect the circumstances in which police are called on to act in order to keep the community safe.

Crucially, the bill gives police the power to arrest without a warrant to preserve the safety and welfare of any person, not only the person arrested. This issue was raised by Judge Conlon and the Government agrees that police should have the power to arrest without a warrant if a person other than the offender is at risk. This could include victims of domestic violence, ambulance officers who attend the scenes of assaults and violent confrontations, as well as innocent bystanders. A similar power exists in Victoria, Queensland and Western

Australia. New section 99 also gives police the power to arrest because of the nature and seriousness of the offence. This gives police the certainty to act swiftly in the case of serious crimes without having to consider whether any other reason to arrest without a warrant exists.

Under an amended section 99 police will be able to arrest a suspected offender without a warrant if the person's identification cannot be readily ascertained by other means or if the officer suspects on reasonable grounds the identity information supplied is false. The realities of day-to-day policing are also reflected by the inclusion of a power to arrest without warrant a suspected offender who is fleeing from police or the scene of a crime and to obtain property in the possession of the person who is connected with the offence. Further, the amended section 99 clarifies that a police officer may arrest a person without a warrant if directed to do so by another police officer who has reason to lawfully arrest that person. A similar provision exists in the Victorian Crimes Act. The reviewers agreed with New South Wales police that this would be a valuable inclusion in the context of large and complex policing operations.

Section 99 will also be amended to make clear to the arresting police officer that an arrest may be discontinued and the person released without requiring the suspect be brought before an authorised officer. This may occur when inquiries reveal the reasons for arrest no longer exist or if police decide it is more appropriate to deal with the matter in some other manner—for example, by issuing a caution, penalty notice or court attendance notice. Finally, section 99 will be amended to make clear that a person who is lawfully arrested under this section may be detained for the purpose of an investigation in accordance with part 9 of the Act. This amendment is intended to remove uncertainty about whether a person who is otherwise lawfully arrested can be detained for questioning under part 9.

I thank the reviewers, Andrew Tink and Paul Whelan, for their outstanding efforts in bringing this complex and challenging issue to such a speedy resolution. The combination of those two former political foes is akin to bringing together Ian Chappell and Tony Greig to play for the same side—that is, the public of New South Wales. In their work on this legislative amendment Paul and Andrew have done a great service not only to the NSW Police Force but also to the people of the State, who will be the ultimate beneficiaries of giving police clearer and more effective powers to keep communities safe. Mr Tink and Mr Whelan are continuing their review of the entire Law Enforcement (Powers and Responsibilities) Act, including particular concerns regarding sections 201 and part 9. They will provide a further report before the end of 2013, with legislation to be introduced early in 2014. I commend the bill to the House.

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

COAL MINE HEALTH AND SAFETY AMENDMENT (VALIDATION) BILL 2013

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

BOARD OF STUDIES, TEACHING AND EDUCATIONAL STANDARDS BILL 2013

Bill introduced on motion by Mr Adrian Piccoli, read a first time and printed.

Second Reading

Mr ADRIAN PICCOLI (Murrumbidgee—Minister for Education) [4.37 p.m.]: I move:

That this bill be now read a second time.

The Board of Studies, Teaching and Educational Standards Bill 2013 gives effect to changes that on behalf of the Government I recently announced to the way we support teachers and schools that deliver on improving student learning by merging the Board of Studies New South Wales and the New South Wales Institute of Teachers. This new body will be the first of its kind in Australia. Its distinctiveness and policy power will come from bringing together the educational cornerstones of curriculum, student assessment and teacher quality in one educational body. These three components should not exist in isolation from each other: the data and experience associated with each has relevance and bearing on the others. In the real world these cornerstones are intrinsically linked. While each of these components is currently of a high standard in New South Wales, we believe that creating a single source of accountability for driving improvements across all of them not only

makes sense but also creates the opportunity for significant improvement. Consolidation of these functions in one organisation enables the Government to ensure that the key variable of teacher quality is at the heart of school organisation and is focused on improving student learning outcomes.

In a modern context, administrative processes must be responsive to evidence of what works best for teachers. The New South Wales Board of Studies, Teaching and Educational Standards will ensure that the continued work of these highly regarded bodies is brought to bear directly on supporting student learning across all sectors. This reform puts standards at the heart of our education landscape. It signals our intent to use our educational resources to address the evidence rather than rely on established practice. It will also mean that there is a single entity responsible for the implementation of the Great Teaching, Inspired Learning Blueprint for Action across the government and non-government school sectors. In addition to being responsible for many key measures in the Government's Great Teaching, Inspired Learning initiative, the Board of Studies, Teaching and Educational Standards will analyse data and consult experts, principals, teachers and parents to continuously improve policy settings for all New South Wales schools.

The current functions of the Board of Studies and the Institute of Teachers will become the functions of the new board. As well, the Government is taking this opportunity to enhance the current registration requirements of the Board of Studies for non-government schools by strengthening the registration standards in the area of school governance. This measure has strong support from the non-government school sector and the new standards will be developed in close consultation with non-government school authorities. This consultation will occur so that those new standards will be implemented concurrent with the commencement of the new Board of Studies, Teaching and Educational Standards from January 2014.

I turn now to the specific provisions of the bill. The objectives of this bill are to constitute a new Board of Studies, Teaching and Educational Standards in New South Wales and to consequentially amend the Education Act 1990 and the Institute of Teachers Act 2004. Part 1 sets out the scheme of the bill by outlining that the new board will have functions set out by this bill as well as those of the Board of Studies and Institute of Teachers under the Education Act 1990 and the Institute of Teachers Act 2004. The latter is being renamed the Teacher Accreditation Act 2004 in recognition of the functions to remain in that Act in relation to school system and individual school teacher accreditation authorities as distinct from the functions of the new board. Part 2 deals with the constitution, membership and functions of the New South Wales Board of Studies, Teaching and Educational Standards and administrative arrangements for the board president, committees and staff of the board. This carries forward the independence and strengthens the broadly representative nature of the Board of Studies to the new Board of Studies, Teaching and Educational Standards. Front and centre in section 6 is the rationale for this change:

> The principal objective of the Board is to ensure that the school curriculum, forms of assessment and teaching and regulatory standards under the education and teaching legislation are developed, applied and monitored in a way that improves student learning while maintaining flexibility across the entire school education and teaching sector.

This is the paramount objective of the newly constituted board, and I emphasize the point again: The aim of this change is to enhance our capability to improve the achievement of all students in New South Wales. Part 3 of the bill provides authority for the Board of Studies, Teaching and Educational Standards to appoint inspectors. Inspectors not only will maintain their current functions under the Education Act 1990, but these functions will also have regard to supporting the improvement in teaching standards and quality. Part 4 of the bill deals with largely machinery provisions drawn from the existing provisions in the Education Act 1990 and the Institute of Teachers Act 2004. The most significant of these is clause 15, New South Wales Board of Studies, Teaching and Educational Standards Fund. This ensures the continuation of the current practice of hypothecating teacher accreditation fees. This means that the fees teachers pay are to be used only for costs incurred by the New South Wales Board of Studies, Teaching and Educational Standards in connection with the accreditation of teachers and in monitoring, maintaining and developing teacher quality.

Schedule 1—Provisions relating to members and procedure of the Board—strengthens the qualifications, expertise and experience criteria for membership of the New South Wales Board of Studies, Teaching and Educational Standards and its standing committees. In particular, the provisions recognise the broad scope of the new board in teacher education and continuing professional development, but also the focus the new board will bring to bear in the critical areas of addressing the disparities in student outcomes for Indigenous students and for those in regional and rural New South Wales. Schedule 2 deals with savings and transitional provisions. In particular, part 2, Provisions consequent on enactment of this Act, dissolves the current entities whose functions will merge—the Board of Studies NSW, the NSW Institute of Teachers, and the board of governance for the NSW Institute of Teachers. It ensures that there will be no lapse in operation with

the creation of one new organisation by providing that each member of the Board of Studies New South Wales is taken to have been appointed as a member of the New South Wales Board of Studies, Teaching and Educational Standards. The existing President of the Board of Studies New South Wales is taken to have been appointed as the President of the New South Wales Board of Studies, Teaching and Educational Standards. Staff of both the Board of Studies New South Wales and the New South Wales Institute of Teachers are transferred to the new organisation.

Schedule 3 sets out the amendments to the Education Act 1990 that result from the bill. These are mostly administrative but also reflect the recent assumption of responsibilities by the Board of Studies under the National Assessment Program, in particular as test administration authority for the National Assessment Program—Literacy and Numeracy [NAPLAN] tests in New South Wales. As well, these amendments confer on the new board a strengthened role in relation to the registration of non-government schools. This is in response to representations from within the non-government school sector itself in relation to ensuring that properly accepted community norms for school governance are in place. The provisions also include the Government's response to a recommendation in a recent decision before the Administrative Decisions Tribunal to provide an explicit link between a school being required to maintain student enrolment and attendance registers and a safe and supportive environment for their students.

Schedule 4 deals with amendments to the Institute of Teachers Act 2004. Principally, it renames that Act as the Teacher Accreditation Act 2004 and proposes various consequential changes brought about by this bill. The independent advisory functions of the Quality Teaching Council have been preserved. This bill also preserves the link between the council and the chairperson of the board of governance of the institute with the equivalent role of the President of the new Board of Studies, Teaching and Educational Standards continuing in the role as the chair of the council. Schedule 5 addresses minor amendments to the Public Finance and Audit Act 1983 and the Public Sector Employment and Management Act 2002 that reflect the merger, together with other consequential changes arising from the commencement of the Government Sector Employment Act 2013 that are required to preserve the independence of the new board.

The creation of the Board of Studies, Teaching and Educational Standards represents the most significant reform of key education bodies in New South Wales since the creation of the Board of Studies by the previous Liberal-Nationals Government in 1990. Just as that reform attracted bipartisan support in the Parliament, I look forward to similar support for this reform by this Parliament. I commend the bill to the House.

Debate adjourned on motion by Ms Carmel Tebbutt and set down as an order of the day for a future day.

CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2013

CIVIL AND ADMINISTRATIVE LEGISLATION (REPEAL AND AMENDMENT) BILL 2013

Bills introduced on motion by Mr Greg Smith, read a first time and printed.

Second Reading

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [4.48 p.m.]: I move:

That these bills be now read a second time.

The Government is pleased to introduce the Civil and Administrative Tribunal Amendment Bill 2013 and the Civil and Administrative Legislation (Repeal and Amendment) Bill 2013 as cognate bills. When the New South Wales Civil and Administrative Tribunal—which will be known more affectionately as NCAT—commences on 1 January 2014, it will exercise the functions of more than 20 existing tribunals: the Consumer, Trader and Tenancy Tribunal, Administrative Decisions Tribunal and Guardianship Tribunal as well as a number of other smaller tribunals that will fall within its jurisdiction. This is a consolidation project of considerable size. To ensure that stakeholders could be properly consulted, legislation to establish the new tribunal has been introduced into Parliament in stages. The first stage—the Civil and Administrative Tribunal Act 2013—received bipartisan support when it was enacted earlier this year. That Act set up the NSW Civil and Administrative Tribunal's divisional and membership structure. It also included some transitional provisions to transfer existing tribunals and tribunal members to the NSW Civil and Administrative Tribunal.

The bills now being introduced by the Government represent the next and final stage of the legislation needed to support the NSW Civil and Administrative Tribunal. The Civil and Administrative Tribunal Amendment Bill 2013—which I will refer to as the amending bill—sets out the jurisdiction, powers and functions the tribunal will need to hear and determine matters. It also contains further transitional provisions to make sure that matters currently being heard by existing tribunals can be seamlessly transferred to the new tribunal environment. The amending bill confers four different types of jurisdiction on the tribunal. In its general jurisdiction, the NSW Civil and Administrative Tribunal will hear a wide variety of matters, ranging from consumer disputes to guardianship proceedings. In its administrative review jurisdiction, the tribunal will provide citizens with the ability to challenge decisions made by a number of government agencies and other bodies.

The NSW Civil and Administrative Tribunal will also have an appeal jurisdiction, which will enable the tribunal's appeal panel to quickly and efficiently hear appeals against most decisions made within the tribunal. The NSW Civil and Administrative Tribunal will also hear appeals from certain external bodies, including appeals from the Mental Health Review Tribunal under the Drug and Alcohol Treatment Act. Finally, the bill gives the NSW Civil and Administrative Tribunal enforcement jurisdiction which will enable it to issue civil penalties and hear proceedings for contempt. All decisions made by the NSW Civil and Administrative Tribunal will be appealable to the Supreme Court or, in some cases, the District Court.

The Government is establishing the NSW Civil and Administrative Tribunal to provide the citizens of this State with a cost-effective, informal and efficient forum for resolving disputes and other matters. While the legislation gives the president of the NSW Civil and Administrative Tribunal flexibility to run the tribunal's day-to-day business, the legislation also gives clear guidance to the tribunal regarding the need to deliver fast and effective services to its users. For example, section 36 of the amending bill contains a guiding principle which will inform the exercise of any power under the Act or regulations. The guiding principle requires the tribunal, and any person appearing before it, to facilitate the just, quick and cheap resolution of the real issues in proceedings. The guiding principle also requires the tribunal to ensure that the cost of proceedings remains proportionate to the importance and complexity of the matter that is in dispute. In addition, section 37 of the amending bill requires the tribunal to promote the use of early dispute resolution processes wherever appropriate.

The amending bill also sets out the general or default requirements regarding the tribunal's practice and procedure. For example, the bill includes provisions that set out how the tribunal is to be constituted. To ensure that tribunal proceedings remain as informal as possible, the bill also provides that parties are to represent themselves in proceedings and limits the circumstances in which costs can be awarded. However, the NSW Civil and Administrative Tribunal will exercise a diverse jurisdiction. The Government understands that a one-size-fits-all approach will not work for all matters. For example, procedures that deliver good outcomes in complex guardianship proceedings might not work for low-value consumer disputes and vice versa. The schedules of the amending bill therefore contain special procedures in relation to some proceedings, including professional discipline and guardianship.

The amending bill has been drafted to ensure that the schedules override the general provisions of the bill to the extent of any inconsistency. For example, while section 27 of the amending bill permits the tribunal to be constituted by a single member, the guardianship schedule specifies that a panel of three members must hear substantive matters in the Guardianship Division. The members allocated to hear these matters will need to have special expertise in the guardianship jurisdiction. This preserves the existing requirements of the Guardianship Act. Special requirements will also be preserved in relation to professional discipline applications. For example, professionals facing disciplinary action will be entitled to be represented by a lawyer. These matters will also be heard by a multi-member panel, which will continue to include professional and community members. A number of other special requirements have been preserved.

The Civil and Administrative Legislation (Repeal and Amendment) Bill 2013 is also being introduced as a cognate bill. The bill makes changes to all New South Wales legislation that makes reference to the tribunals that are being consolidated into the NSW Civil and Administrative Tribunal. As members can see from the size of the bill, this has been no easy task. A large proportion of the bill simply updates references to the existing tribunals with references to the NSW Civil and Administrative Tribunal. However, the Government has also taken this opportunity to reduce unnecessary duplication by removing provisions that will not be needed once the NSW Civil and Administrative Tribunal's legislation commences. In particular, the Consumer, Trader and Tenancy Tribunal Act 2001 will be repealed entirely.

While the Civil and Administrative Legislation (Repeal and Amendment) Bill 2013 is largely machinery in nature, it is extremely important. This bill will ensure that the NSW Civil and Administrative Tribunal is authorised to exercise the jurisdiction of the existing tribunals when it commences on 1 January 2014. This will ensure that tribunal users do not experience a break in service when the NSW Civil and Administrative Tribunal commences. The establishment of the NSW Civil and Administrative Tribunal affects a wide range of stakeholders. The Government has therefore consulted widely on these bills during the past 12 months to ensure that the tribunal's legislation meets the needs of all tribunal users. A number of professional associations, advocacy groups, tribunal user groups and tribunal representatives have contributed to the final form of this legislation.

I would like to take this opportunity to thank each of the individuals and organisations that have contributed their time to making sure that the NSW Civil and Administrative Tribunal's legislation is appropriate and effective. The Government is confident that these bills will support the tribunal to increase the consistency, quality and efficiency of tribunal services. The NSW Civil and Administrative Tribunal represents a new era of accessible justice in this State. It is part of the Government's broader commitment to improving public services for the people of New South Wales. The NSW Civil and Administrative Tribunal will simplify the complexity of the existing tribunal system, providing the citizens of this State with a one-stop shop for almost all tribunal services for the first time.

The NSW Civil and Administrative Tribunal is a unique opportunity to improve the way that tribunal services are delivered in this State. It is an opportunity to identify centres of excellence within our tribunal network and to expand them. It is also an opportunity to raise community awareness and confidence in our tribunal system. Most of all, the NSW Civil and Administrative Tribunal is an opportunity to make sure that the people of New South Wales receive the benefit of a consistent and coordinated approach to the delivery of tribunal services. I commend the Civil and Administrative Tribunal Amendment Bill 2013 to the House.

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

CRIMES LEGISLATION AMENDMENT BILL 2013

Bill introduced on motion by Mr Greg Smith, read a first time and printed.

Second Reading

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [4.48 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Legislation Amendment Bill 2013. The purpose of the bill is to make miscellaneous amendments to criminal legislation, as part of the Government's regular legislative review and monitoring program. The bill amends a number of Acts to improve the efficiency and operation of the State's criminal laws. I will now outline each of the amendments in turn. Item [1.1] of schedule 1 amends the Bail Act 1978 to clarify in section 44 of that Act that a magistrate may review a bail decision of the President of the Children's Court made in the Children's Court jurisdiction. Section 44 of the Bail Act provides powers for particular judicial officers to review the bail decisions of other judicial officers. Currently, section 44 (2) provides that a magistrate may review a bail decision of an authorised officer, magistrate, including the reviewing magistrate, or authorised justice.

Under the Children's Court Act 1987, the President of the Children's Court must be a District Court judge, and continues to sit and determine matters, including bail matters, in the Children's Court as a District Court judge, not as a magistrate. On that basis, under section 44 (2), a magistrate sitting in the Children's Court does not have the power to review a bail decision of the president. The amendment will clarify that bail decisions made by the president in the Children's Court are reviewable by magistrates. This amendment was requested by the President of the Children's Court to ensure that his bail decisions can be reviewed by magistrates of that court without the matter having to go to a higher court. This issue will not arise under the new Bail Act 2013, which does not incorporate a scheme of review for bail decisions. Instead, that Act generally provides powers to hear further bail applications, following an initial bail decision, to particular courts rather than to particular judicial officers, subject to limited exceptions.

Whilst it is anticipated that the new Bail Act will commence in May 2014, it is important that this issue be resolved urgently so that magistrates in the Children's Court can review a bail decision made by the President of the Children's Court whilst sitting in that jurisdiction. Item [1.2] of schedule 1 amends the requirement specified in part 29 of schedule 11 to the Crimes Act 1900 for the Ombudsman to prepare a report on the amended consorting provisions contained in that Act. Currently, part 29 requires the report to be prepared as soon as practicable after the end of the period of two years from their commencement, which was in April 2012. This bill amends the reporting period to three years. The amended consorting provisions in section 93X of the Crimes Act were introduced to modernise the old consorting offence in that Act. They are aimed at deterring people from associating within a criminal environment.

A person is guilty of an offence under section 93X if they consort with others as described in that section. However, before a person can be charged, the section requires that they be warned about their conduct on at least two occasions. Due to limitations with the NSW Police Force's Computerised Operational Policing System, known as COPS, the police have thus far been unable to collate data on the number of warnings that have been issued. This means that there is currently insufficient data available for the Ombudsman to conduct a proper review of the provisions. The police are implementing enhancements to Computerised Operational Policing System to rectify these data issues. The Ombudsman has requested that the prescribed review period be increased to three years. This will provide sufficient time to resolve the data issues so that the Ombudsman can prepare an informed report. The proposed amendment extending the reporting period to three years will require the Ombudsman to report as soon as practicable after April 2015.

Item [1] of schedule 1.3 amends the Crimes (Forensic Procedures) Act 2000 to change the reference to "the police officer" in section 21 (2) of that Act to "the senior police officer". Section 21 provides that a senior police officer may make a non-intimate forensic procedure order by telephone, radio, and other means of transmission. When an order is made in this way, section 21 (2) requires the senior police officer to ensure that the suspect—or their legal representative or interview friend—is given an opportunity to speak to the police officer. The intention of the provisions is that the suspect, their legal representative or interview friend be given an opportunity to speak to the senior police officer making the order, not some other officer. The amendment will clarify this intention. Items [2] and [3] of schedule 1.3 amend section 26 of the Crimes (Forensic Procedures) Act to make clear that applications to a court for an order to carry out a forensic procedure can be heard in the absence of the suspect.

Item [4] amends section 30 of the Crimes (Forensic Procedures) Act to make this intent clear by providing that an order for a forensic procedure may be made in the presence of the suspect or ex parte—that is, without the suspect—at the discretion of the magistrate hearing the application. Currently, sections 26 and 30 of the Crimes (Forensic Procedures) Act provide that the application and any order are to be made in the presence of the suspect, subject to any contrary order made by the magistrate. Allowing the magistrate to make a contrary order may already provide for ex parte applications and orders, however, the proposed amendments are intended to make this clear. The clarification is required as difficulties arise when the suspect being investigated is in another State or Territory at the time an order is sought by the police. This can create difficulties if the police are required to bring the suspect to a New South Wales court to make an application for an order. Clarifying that an ex parte application can be heard and determined will overcome these difficulties and minimise unnecessary travel or extradition procedures for suspects.

Items [5] and [6] make amendments that are consequential to providing for ex parte hearings. Clause [5] amends section 30 to maintain the current requirement for an interview friend to be present for certain vulnerable suspects if the suspect appears in person for an application hearing. Vulnerable suspects include a child, incapable person, or anyone who identifies as an Aboriginal person or Torres Strait Islander. Item [6] provides that a suspect is only required to be asked whether they identify as an Aboriginal person or Torres Strait Islander at the beginning of an application hearing if they are physically present at the hearing. None of the proposed amendments removes a suspect's right to be represented by a legal practitioner at a hearing, whether or not they are present.

Item [1] of schedule 1.4 amends section 25 of the Crimes (High Risk Offenders) Act 2006 to provide an additional means for the Attorney General to obtain documents, reports, or any other information relating to an offender from a court. The section currently requires that the Attorney General obtain such material by order in writing. The proposed amendment will provide the Attorney General with a power to obtain such material from a court by request rather than by order in writing. Item [2] of schedule 1.4 amends section 25 (3) to provide that material obtained in this way is admissible in proceedings under the Crimes (High Risk Offenders) Act, as it

currently is when obtained by order. Item 1.5 of schedule 1 amends section 294D of the Criminal Procedure Act 1986 to clarify that the protections of part 5 division 1 of that Act apply to sexual offence witnesses when they give any type of evidence in proceedings in respect of a prescribed sexual offence.

These protections are currently available to all complainants who give evidence in trials for prescribed sexual offences. For example, unless the court orders otherwise, their evidence is to be given in a closed court, or remotely via closed-circuit television facilities. Section 294D (2A) now extends these protections to sexual offence witnesses. Sexual offence witnesses are witnesses in proceedings other than the complainant who give evidence in relation to prescribed sexual offences alleged to have been committed against them by the accused—for example, as tendency evidence. The Sexual Assault Review Committee has advised the Government that section 294D (2A) is only being applied to sexual offence witnesses when they give evidence about certain offences or acts, as set out in sections 294D (2) (a) and (b), committed against them by the accused. On this interpretation, the protections are not available when sexual offence witnesses give other types of evidence such as context evidence. This creates an anomaly whereby a sexual assault witness may not be afforded the same protections that were available to them as a complainant when they gave the same evidence against the same accused in an earlier trial.

The proposed amendment to section 294D of the Criminal Procedure Act will clarify the intended application of the protections to both complainants and sexual offence witnesses, irrespective of the nature of the evidence that they give in proceedings. Item [1.6] of schedule 1 amends the Interpretation Act 1987 to clarify that a reference in any New South Wales Act to an offence punishable by imprisonment for a specified term or more includes a reference to common law offences and those punishable by life imprisonment. Currently, there are a number of provisions in various New South Wales Acts that refer to serious indictable offences, serious criminal offences, or serious crime-related activity, which are defined by the period of imprisonment available for the offence or activity. For example, section 21 (1) of the Interpretation Act defines "serious indictable offence" as "an indictable offence punishable by imprisonment for life or for a term of 5 years or more". The definition of "serious criminal offence" in section 6 (d) of the Criminal Assets Recovery Act 1990 includes "an offence that is punishable by 5 years or more".

However, these definitions do not specifically refer to common law offences such as conspiring to commit an offence. For these offences, the penalty is considered "at large"; that is, there is no limit on the maximum term of imprisonment that can be imposed. Given that the maximum penalty is available, common law offences should be captured by any provision that refers to an offence punishable by imprisonment for a specified term or more. The proposed amendment to the Interpretation Act will make this clear. There is also inconsistency between the definitions as to whether they include offences punishable by life imprisonment. For example, the definition of "serious indictable offence" in the Interpretation Act includes life imprisonment, whereas a definition of "serious criminal offence" in the Criminal Assets Recovery Act does not. The amendment will clarify that offences carrying life imprisonment are captured by these definitions. These reforms do not represent a change to the types of offences captured by terms such as "serious indictable offence". Rather, they simply make clear that these definitions apply the common law offences and the offences carrying life imprisonment. I commend the bill to the House.

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2013

Bill introduced on motion by Mr Greg Smith, read a first time and printed.

Second Reading

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [5.14 p.m.]: I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2013 continues the longstanding statute law revision program. Bills of this kind have featured in most sessions of Parliament since 1984 and are recognised as an effective tool for making minor policy changes, repealing redundant legislation and maintaining the quality of the New South Wales statute book. Schedules 1 and 2 to the bill contain policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a

separate amending bill. Those schedules contain amendments to 23 Acts and two regulations. I will mention some of the amendments to give honourable members an indication of the kind of amendments that are included in the schedules.

Amendments made by schedule 1 to the Environment Planning and Assessment Act 1979 will provide that certain persons appointed as authorised officers for enforcement purposes need not be provided with identification cards. This would apply to classes of authorised persons, such as police officers, who possess adequate identification as members of that class. Schedule 1 amends the Food Act 2003 to remove an unnecessary requirement for the proprietors of certain food businesses to give notice of the appointment of food safety supervisors. The requirement has been removed because the information required to be notified is verified on the inspection of the food premises. Schedule 1 also amends the Victims Rights and Support Act to preserve certain protections that are applied pursuant to the repealed Victims Support and Rehabilitation Act 1996. The protections relate to the inadmissibility of evidence in respect of applications for statutory compensation or for payment of approved counselling services under that repealed Act.

Amendments are made by schedule 1 to the Telecommunications (Interception and Access) (New South Wales) Act 1987 to bring certain definitions in that Act into line with the Telecommunications (Interception and Access) Act 1979 of the Commonwealth. The amendments will have the effect of enabling members of staff authorised to act as certifying officers under that Commonwealth Act to certify documents connected with the issue of warrants. The amendments will also enable the Police Integrity Commission to retain intercepted information for purposes connected with the investigations of police administrative officers and Crime Commission officers.

An amendment is made by schedule 1 to the Smoke-free Environment Act 2000 to give police officers certain functions of inspectors under that Act. This will enable police officers to issue penalty notices to persons smoking on railway platforms and stations, ferry wharves, light rail, bus stops and taxi ranks. The Photo Card Act 2005 is amended to update references to provisions of the Crimes Act 1900, which have been amended to modernise the law relating to fraud and forgery offences, and to create new offences relating to identity crime. This will enable Roads and Maritime Services to use photographs in connection with investigations relating to offences under those provisions involving photo cards.

The last schedule 1 matter I will mention is the amendments made to the Associations Incorporation Act 2009. The amendments will provide that notices of cancellation of the registration of an association may be sent by ordinary post. Currently, such notices are required to be sent by registered post. Schedule 2 amends a number of Acts as a consequence of the amalgamation of the Local Government Association of New South Wales and the Shires Association of New South Wales. On 1 March 2013, those associations were amalgamated under the Industrial Relations Act 1996 to form Local Government New South Wales. The amendments will ensure that certain functions exercised under those Acts by the former associations will continue to be exercised by the amalgamated association. In particular, those functions relate to the nomination of members of statutory bodies.

Schedule 3 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 3 arising out of the enactment of legislation include correcting numbering and typographical errors, and updating terminology. Schedule 4 repeals the Local Government Associations Incorporation Act 1974. This has become redundant as a consequence of the amalgamation of the Local Government Association of NSW and the Shires Association of NSW. The schedule also removes references in the Marine Safety Act 1998 to repealed legislation. 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 Act and provisions. The various amendments are explained in detail in the explanatory notes beneath the amendments to each of the Acts and statutory instruments concerned, or at the end of the schedule concerned.

I am sure that members will appreciate the straightforward and noncontroversial nature of the provisions contained in the bill. However, if any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for government officers to provide additional information on the matters raised. If any particular matter of concern to be resolved is likely to delay the passage of the bill, the Government is prepared to consider withdrawing it from the bill. I commend the bill to the House.

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

NEW SOUTH WALES CRIME COMMISSION

Report

The Assistant-Speaker (Mr Andrew Fraser) tabled, pursuant to section 68 of the Crime Commission Act 2012, the report of the Inspector of the New South Wales Crime Commission for the year ended 30 June 2013.

Ordered to be printed.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The Assistant-Speaker (Mr Andrew Fraser) tabled, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, the report of the Independent Commission Against Corruption for the year ended 30 June 2013.

Ordered to be printed.

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT BILL 2013

Second Reading

Debate resumed from an earlier hour.

Ms MELANIE GIBBONS (Menai) [5.22 p.m.]: I support the Crimes (Domestic and Personal Violence) Amendment Bill 2013. I commend the Government for taking greater steps not only to ensure the safety of victims of domestic and personal violence but also to make it easier for protections to be put in place. The bill is well-timed; we are only a few short weeks away from White Ribbon Day—the day on which we seek to raise awareness about violence against women. I will again be proudly wearing my white ribbon and I am sure my colleagues will too. I have spoken in this House previously about domestic violence and how it is often a hidden problem in our suburbs. Many victims stay silent about their predicament and, unfortunately, do not seek help until it is far more serious. We need to do as much as we can to protect those victims and to equip our police with the powers they need to respond quickly and proactively in times of perceived danger or threat to their personal safety.

The bill gives police the power to issue provisional apprehended domestic violence orders and personal violence orders. For the first time, senior police officers, or those of the rank of sergeant or above, will be able to issue apprehended domestic violence orders at the time of an incident. Currently police are required to apply to an authorised officer for a provisional apprehended domestic violence order. This requires them to leave the scene of the incident and leaves the victim in a potentially vulnerable position. The current orders are not always immediately enforceable, and in many cases are made outside of court hours. The introduction of police-issued apprehended domestic violence orders will help to improve community and family safety and increase protection for domestic violence victims.

The proposed amendments to the Act are designed to ensure that apprehended domestic violence orders are served and are enforceable as soon as possible after the incident. In addition, a police-issued order operates as an application for a final order, so the application will be subject to judicial scrutiny before any final order is made. Faster protection for victims has been made a priority. These amendments will ensure that the matter is heard as quickly as possible. It should be noted that the police officer applying for a provisional order is prohibited from issuing it. Although orders will be easier to obtain, they will still be limited to those with the appropriate experience. Only the courts will have the power to make a final order—this has not changed.

All provisional orders must now contain information regarding the details of the court appearance, including a specified date—usually the next date on which the matter can be listed after the incident. However, it must not be more than 28 days after the provisional order has been made. In most instances, the case will be heard at the nearest local court, but sometimes—due to the incident having occurred while people were on holidays or for some other reason—it will be heard at the court nearest to the residence of the involved parties. Measures are also included to allow an application to vary or revoke a police-issued order, but only if a child is named as a protected person on the order.

Another important provision in the bill is the expanded powers for police to direct and detain a person for the purpose of serving a provisional order. Police will still be able to direct a person to remain at the scene of an incident or at a place where the person is located for the purpose of serving an interim apprehended personal violence order—which is a provisional order. If they fail to comply, they can be arrested and detained. The same goes for serving a provisional apprehended domestic violence order. However, directing a person to remain at the scene may result in the victim being forced to leave his or her home. Further provisions will allow police to direct a person to remain at a particular place or to go to and remain at a police station or another agreed place. In some instances, the person may be directed to accompany a police officer to the station. Once again, if they fail to comply with these directions, police are able to detain and arrest them and they will be taken to the nearest police station.

There will be circumstances where such actions will need to be considered. These include the person's age—whether young or old—whether they are intoxicated from drugs or alcohol, or whether the person has a disability or cognitive impairment that may influence their behaviour in such a situation. In some cases a history of victimisation of the person by the protected person may also need to be taken into account. It is worthy of note that our southern neighbours in Victoria have had success with similar legislation. A recent evaluation of its program showed that 90 per cent of defendants were removed by police and that, in turn, had clear advantages in improving victims' safety. I believe we will see similar positive results for victims of domestic and personal violence threats in New South Wales.

There will be greater emphasis on considering mediation in resolving such matters, but only when it is deemed appropriate. In cases involving violence or other threatening behaviour, it is not always advisable to participate in mediation, but this will be encouraged as an alternative dispute resolution method where possible. The bill removes the current prohibition on referring parties to mediation in domestic violence cases. I am also pleased that the bill makes it an offence to make a false or misleading application for an apprehended personal violence order. Those found guilty of such an offence will be subject to a maximum penalty of 12 months or 10 penalty units, or both. In an area where police and other community services are already under strain, it is important that nuisance or false applications do not tie up the system for genuine cases.

I take this opportunity to briefly mention the work of Sutherland Shire Family Services—a community based not-for-profit organisation, which provides a broad range of innovative and professional services to vulnerable children, young people and families living in the Sutherland shire and St George area. This organisation offers a range of services, including Sutherland Shire Family Services support projects, Youth and Family Work Project, Sutherland and St George Aboriginal Family Worker Project, Southern Sydney Women's Domestic Violence Court Advocacy Services, Djanaba Occasional Child Care Service, Sutherland Shire Domestic Violence Pro Active Support Service, Emergency Relief Assistance Program, and the innovative Building Resilience in Children Project.

Mr Mark Speakman: A great organisation.

Ms MELANIE GIBBONS: I acknowledge the interjection of the member for Cronulla. It is a great organisation. The Building Resistance in Children Project, better known as BRIC, is particularly innovative. It aims to bridge the gap for children living with the trauma of domestic violence. While a number of programs are available to support women affected by domestic violence, very little has been developed to address the needs of children in the same situation. This project brings great relief to parents at their wit's end. Simple achievements such as hearing their children laugh again were celebrated as great wins. I am particularly impressed by the Sutherland Shire Domestic Violence Pro Active Support Service, which has been running for the past four years and which is funded through the Office for Women.

The service is a partnership program with the local police that focuses on support, information and referral options for victims of domestic and family violence. In 2011 alone there were 1,372 referrals to Sutherland Shire Family Services from both Sutherland and Miranda local area commands, showing that there is a growing need for support services dedicated to victims of domestic violence. The aim of the service is to provide support immediately after police intervention in response to domestic violence and to follow through until court appearances or until other action is taken. By providing support at this critical time, it is hoped that the cycle of repeated domestic violence orders may be broken. It is incredible to think that 1,372 people have had to come forward for assistance. This is an issue we should look at further. I hope this new legislation will work well with the assistance of support providers like Sutherland Shire Family Services and ultimately help more victims of domestic violence. I thank the Minister and his staff for crafting this bill and I commend it to the House.

Mr GUY ZANGARI (Fairfield) [5.30 p.m.]: The object of the Crimes (Domestic and Personal Violence) Amendment Bill 2013 is to amend the Crimes (Domestic and Personal Violence) Act in relation to both apprehended domestic violence orders and apprehended personal violence orders in a number of ways to allow our police to better protect individuals who may be at risk of harm. At present apprehended domestic violence orders may be issued only by an authorised officer who is an authorised employee of the Department of Attorney General and Justice, a magistrate, a children's magistrate or a registrar of the Local Court.

Schedule 1 [5] will substitute section 25 of the principal Act, which will allow a senior New South Wales police officer—a senior officer is someone of or above the rank of sergeant—to issue interim apprehended domestic violence orders. These interim orders will help ensure that, should the safety of an individual or property be immediately threatened, an officer may immediately intervene and issue the provisional order. Under schedule 1 [19] and schedule 1 [21] police will also be conferred additional powers to direct a person to remain at the scene so that an interim order can be made. Should the individual become unruly and refuse to cooperate, police may detain that person while transporting them to a police station for the purpose of applying for and serving on them an interim domestic violence order.

Further amendments within schedule 2 provide that a court, when considering mediation, must refer the parties to the order for mediation under the Community Justice Centres Act 1983 unless the court is satisfied that there is a good reason not to do so. Schedule 2 [2] and schedule 2 [3] enable the court to determine whether or not an individual should be referred to mediation based on their prior offences. The court will consider issues such as "a history of physical violence towards the victim". Under the current legislation, such circumstances cannot be considered when determining whether or not to refer an individual for mediation. Through the proposed amendments, the existence of one or more of these factors no longer prevents the court from referring a matter to mediation.

New requirements have been imposed in relation to the treatment of persons in detention and the subsequent requirement for the officers to keep records of any such detentions. Additionally, provisions have been included to ensure that it is an offence to make a false or misleading statement for the purpose of making an application for an apprehended personal violence order. The proposed amendments to this legislation have arisen from the need for change and subsequent reviews of the present legislation, which have placed an emphasis on the use of mediation to resolve disputes. It has been shown that mediation has had a very high success rate in resolving such disputes, and as such it should be adopted as a standard protocol to handle these issues, should the circumstances permit.

The proposed amendments contained in this bill make sense and will give the hardworking men and women of the NSW Police Force additional powers to ensure that they can swiftly intervene and protect victims of domestic and personal violence from those who would do them harm. I am happy to support the amendments that will help to better serve and protect our local communities, especially if they may help curb domestic and personal violence. I do not oppose this bill.

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [5.34 p.m.], in reply: I thank the members representing the electorates of Liverpool, Menai and Fairfield for their contributions to the debate on the Crimes (Domestic and Personal Violence) Amendment Bill 2013. The introduction of police-issued apprehended domestic violence orders and expanded police powers to direct a person to go to or remain at a particular place or to detain a person for the purpose of serving a provisional order in schedule 1 will help to ensure the immediate protection and safety of domestic violence victims. The amendments provide a significant extension of police powers but are a balanced and appropriate response to domestic violence, with safeguards included to prevent abuse of these powers.

The ASSISTANT-SPEAKER (Mr Andrew Fraser): Order! There is too much audible conversation in the Chamber. Members and staff behind the bar of the House who wish to have private conversations should do so outside the Chamber.

Mr GREG SMITH: The amendments in schedule 2 apply only to applications for apprehended personal violence orders and will provide greater flexibility to magistrates to refer parties to mediation, enhance a registrar's ability to refuse to accept an application for filing where appropriate, and make it an offence to knowingly make a false or misleading statement in an application. The amendments will provide the court with

greater flexibility to promote mediation of matters so that only appropriate matters come before the courts. They are intended to minimise the number of frivolous and vexatious applications for apprehended personal violence orders. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Mr Greg Smith agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Mr BRAD HAZZARD (Wakehurst—Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW) [5.37 p.m.]: I move:

That standing and sessional orders be suspended to:

(1) Permit the passage through all stages, at this or any subsequent sitting, of the Mining Amendment (Development Consent) Bill.

(2) Provide for the following routine of business from 7.00 p.m.:

(a) Government business; and

(b) the House to adjourn on motion.

I indicate to all members, and I have indicated this to the Opposition already, that the Government proposes to conclude debate this evening on five bills: the Mining Amendment (Development Consent) Bill 2013, the Building and Construction Industry Security of Payment Amendment Bill 2013, the Combat Sports Bill 2013, the Residential (Land Lease) Communities Bill 2013 and the Cemeteries and Crematoria Bill 2013. There will also be a second reading debate on the Regional Relocation (Home Buyers Grant) Amendment Bill 2013.

I do not propose to interrupt the usual dinner arrangements. At 7.00 p.m. the House will not proceed to the usual private members' statements and neither will there be a debate on a matter of public importance. I give the House an undertaking that if the House is able to deal with these bills tonight then I will try to allocate time tomorrow afternoon during the period set down for government business for private member's statements from those members who would otherwise have presented them this afternoon and to allow debate on a matter of public importance. The House will adjourn tonight at the conclusion of the debate on the five bills I have listed, and any other matters of government business that may arise during the course of this evening.

Mr RICHARD AMERY (Mount Druitt) [5.40 p.m.]: The Opposition opposes the motion moved by the Leader of the House. I can indicate that at the conclusion of the respective debates the Opposition will vote against some of the bills he mentioned.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 64

Mr Anderson	Mr George	Mr Piccoli
Mr Aplin	Ms Gibbons	Mr Provest
Mr Ayres	Ms Goward	Mr Roberts
Mr Baird	Mr Grant	Mr Rohan
Mr Barilaro	Mr Gulaptis	Mr Rowell
Mr Bassett	Mr Hartcher	Mrs Sage
Mr Baumann	Mr Hazzard	Mr Sidoti
Ms Berejiklian	Ms Hodgkinson	Mrs Skinner
Mr Bromhead	Mr Holstein	Mr Smith
Mr Brookes	Mr Humphries	Mr Speakman
Mr Casuscelli	Mr Issa	Mr Spence
Mr Conolly	Mr Kean	Mr Stokes
Mr Constance	Dr Lee	Mr Toole
Mr Cornwell	Mr Marshall	Ms Upton
Mr Coure	Mr Notley-Smith	Mr Ward
Mrs Davies	Mr O'Dea	Mr Webber
Mr Dominello	Mr O'Farrell	Mr R. C. Williams
Mr Doyle	Mr Owen	Mrs Williams
Mr Edwards	Mr Page	
Mr Evans	Ms Parker	*Tellers,*
Mr Flowers	Mr Patterson	Mr Maguire
Mr Gee	Mr Perrottet	Mr J. D. Williams

Noes, 24

Mr Barr	Ms Hornery	Mr Robertson
Ms Burney	Mr Lynch	Ms Tebbutt
Ms Burton	Dr McDonald	Ms Watson
Mr Collier	Ms Mihailuk	Mr Zangari
Mr Daley	Mr Park	
Mr Furolo	Mr Parker	
Mr Greenwich	Mrs Perry	*Tellers,*
Ms Hay	Mr Piper	Mr Amery
Mr Hoenig	Mr Rees	Mr Lalich

Question resolved in the affirmative.

Motion agreed to.

MINING AMENDMENT (DEVELOPMENT CONSENT) BILL 2013

Bill introduced on motion by Mr Chris Hartcher, read a first time and printed.

Second Reading

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [5.49 p.m.]: I move:

That this bill be now read a second time.

The Mining Amendment (Development Consent) Bill 2013 amends the provisions of the Mining Act 1992 relating to the need for development consent before a mining lease is granted. The Mining Act provides for the orderly administration of minerals titles as well as the regulation of mining activity on land in New South Wales. Mining in New South Wales makes a major contribution to the State's economy by bringing with it new investment, boosting regional development and job creation, and by creating increased export opportunities. Mining-related royalties are a major contributor to State finances and in turn they contribute to investment in community infrastructure and programs. A notable example of this is the Government's Resources for Regions

program, which is aimed at relieving infrastructure constraints and supporting New South Wales communities that are affected by mining. Whether directly or indirectly, we all benefit from a strong mining industry in New South Wales.

A provision in the Act has been identified as potentially affecting the integrity of the mining titles framework in New South Wales. It relates to the need for appropriate development consent before a mining lease can be granted. There are two types of mining leases: a mining lease for minerals or a mining lease for mining purposes. Before either of those leases is granted, appropriate development consent or other planning approval must be obtained under the Environmental Planning and Assessment Act. Turning to the distinction between the types of mining leases, I point out that a mining lease for minerals allows the holder to prospect and mine across the whole area of the lease. It also allows the holder to carry out mining purposes. On the other hand, a mining purposes lease does not allow for any prospecting or mining activity; rather, it allows for works associated with extraction, such as building a road or a dam. The validity of mining leases under the Act is being brought into question in pending court proceedings.

Although the Act makes clear that a mining lease for minerals permits the carrying out of mining purposes, it is not immediately apparent what constitutes appropriate development consent for this type of mining lease. This is an unintended consequence of the amendments to the Act in 1996 that introduced mineral leases for mining purposes. If the court were to find that development consent that permits mining purposes is not an appropriate form of consent for granting of a mining lease for minerals, that would have far-reaching and negative repercussions. It would call into question the validity of most mining leases that exist today. It would also create unnecessary red tape for industry by effectively requiring any future mining projects to obtain a patchwork of different mining leases for one development consent area. It could also result in significant job losses across the industry, should mining leases be found to be invalid. That would affect the current health of the mining industry and, indirectly, the community as a whole. Standing idly by and not addressing this issue will create sovereign risks for the State.

The Government is committed to preserving the status quo. The amendments will make clear that development consent for mining purposes can be an appropriate form of consent to enable the grant of a mining lease for minerals. The bill will strengthen the titles framework under the Act by ensuring the security of tenure to current holders of a mining lease. However, let me make it crystal clear that under this bill a development consent to permit mining purposes can be appropriate development consent for granting a mining lease for minerals. However, such a mining lease would not allow mineral extraction unless a development consent is in place. If a person wishes to undertake extraction activities, that person must have—or must apply to have—development consent that permits extraction. These amendments in no way affect the requirements for both to have consent under the Environmental Planning and Assessment Act 1979.

In summary, this bill introduces very important changes that provide clarity and certainty to titleholders and the mining industry generally. The bill will benefit the State of New South Wales by ensuring that the titles framework in the Act is preserved in its current form. It will allow for business as usual—a vigorous, healthy, active mining industry underpinned by a strong titles framework. I commend the bill to the House.

Mr PAUL LYNCH (Liverpool) [5.54 p.m.]: I lead for the Opposition in this House in debate on the Mining Amendment (Development Consent) Bill 2013. The shadow Minister with carriage of the matter is the Hon. Steve Whan in the other place and he will deal in substance with the bill. The object of the bill is stated to be to amend the Mining Act 1992 to clarify the requirement for appropriate development consents for activities carried out under mining leases. As I understand it, the Government puts forward this bill on the basis that it is necessary because of a court challenge from a company seeking to invalidate some leases in mines, including Cadia Valley near Orange. This bill is being passed through all stages at one sitting. The Opposition would have liked to have had the opportunity to read the bill and give it proper consideration. We do not oppose the bill in this place. The Hon. Steve Whan will consider the position of the Opposition and deal with the legislation in more detail in the other place.

Mr TIM OWEN (Newcastle) [5.55 p.m.]: I support the Mining Amendment (Development Consent) Bill 2013. The minerals industry makes a major contribution to the New South Wales economy in terms of investment, business activity and export revenue, which are all critical to the ongoing expansion of our economy. The industry also makes a significant contribution to regional development and job creation. In New South Wales alone, more than 33,000 people are directly employed in the mining and minerals industries along with another 84,000 workers whose jobs are derived from mining and non-mining related services. Many of the jobs directly created in the industry are highly skilled and well paid. Supporting services and industries for the

mining industry have a profound and positive effect on local economies by providing employment, which benefits the entire area. The mining industry provides both direct and indirect benefits across New South Wales, not just in the communities where it has a physical presence.

Royalties collected from the mining industry totalled approximately $1.3 billion in 2012-13. This money supports infrastructure and services that benefit the whole State. Individual mines play an important role in supporting local communities. Cadia Valley Operations is one of Australia's largest gold and copper mining operations. It has been active for the past 15 years, with approximately $4 billion having been invested by Newcrest. It is one of the largest private employers in the New South Wales Central West region, directly employing a local workforce of approximately 1,300 people who are drawn from the surrounding State electorates of Orange, Bathurst and Dubbo. Two billion dollar mine expansion works are under way to develop the new Cadia East project. The works are expected to secure mining operations in that region on the site until at least 2031, with potential to extend operations by between 30 and 50 years. These are significant projects.

Cadia Valley Operations directly contributed approximately $147 million in mining royalties over the past five years. In 2013 salaries and wages paid by Cadia totalled $98 million and payments to suppliers amounted to $380 million, which makes it a major contributor to local and State economies. As a low-cost supplier of gold, base metals, minerals sands and gemstones, New South Wales is set to enhance its position as a leading source of minerals, exporting to world markets. This is in tandem with the State's position as a leading supplier of coal to the global market. In 2011-12, Australia was equal with Indonesia as the world's number one coal exporter, sending some 300 million tonnes offshore. This State supplied 45 per cent of those coal exports—some 136.4 million tonnes worth an estimated $16.8 billion. In terms of its value to the New South Wales economy, coal continues to be the single-largest export earner.

In addition, this State continues to consolidate its position as a value-adding centre for processed metals and mineral products. We produce a diverse range of minerals including metals, industrial minerals and construction materials. Some of the more significant of those export metals include gold, copper, lead, silver and zinc. Gold production, in particular, has increased significantly over the past decade. New South Wales is now the second-biggest gold producer in Australia, after Western Australia. We also export aluminium, iron and steel, which are used for construction and development throughout the region. The total value of New South Wales mineral production, excluding coal, was valued at approximately $4.2 billion last year and exports for these minerals were worth approximately $3.4 billion for the same period.

In fact, the total value of New South Wales production for a diverse range of minerals, including coal, gas, metallic and industrial minerals, and construction materials, was more than $21 billion in the last financial year. The New South Wales Government has put programs in place to encourage investment in mining and exploration. These will ensure the ongoing development of the sector. The New Frontiers Cooperative Drilling initiative is a good example of these programs. It represents a significant step forward in encouraging mineral exploration in New South Wales. New Frontiers is a partnership between government and industry for drilling in frontier regions and other geological frontiers. Frontier regions are those where little exploration has taken place and there is little understanding of the geology or prospectivity of a region. Under this program, the Government will fund up to 50 per cent of direct drilling costs for individual projects, with a cap of $200,000. This initiative will see the New South Wales Government invest up to $2 million in the 2013-14 financial year to encourage exploration. This will provide direct support to the long-term sustainability of the State's resources sector. That is why this amendment to the Act is so important.

The bill ensures that a development consent, which only approves development for mining purposes, can be appropriate development consent for the grant of a mining lease for minerals. The amendments will apply to previous, existing and future titles. The amendments will not affect the requirement to obtain development consent and other planning approval for exploration, mining or mining purposes. This means that if a miner wishes to conduct extraction activities under a mining lease for minerals but does not have development consent to do so on the land that is the subject of the lease the miner will still need to obtain a planning consent to permit that extraction activity. These changes will protect the integrity of mining titles and that regime in New South Wales. That is why the amendment is so important to the State. The Government also recently took another step to support the resources sector by signing a memorandum of understanding with the South Australian Government. The memorandum aims to maximise investment and economic development in mineral resources near the State's shared borders.

This will give both New South Wales and South Australia the opportunity to capitalise on their strong resources sector and to strategically attract investment to both States. Joint programs will be created to promote

exploration and investment in the border region's unique geology and mineral systems. Again, the amendment is important for that operation. With these initiatives, the New South Wales Government is actively supporting the mining industry and providing for the future of our State. Finally, the Government recognises the significant contribution made by the mining industry and will continue to support its ongoing development and the continuing benefit it brings to the community of New South Wales. The benefits to the State of New South Wales and its regional communities are at risk if mining titles are not found to be valid. Again, that is why this amendment is important. I commend the Mining Amendment (Development Consent) Bill 2013 to the House.

Mr KEVIN ANDERSON (Tamworth) [6.03 p.m.]: I support the Mining Amendment (Development Consent) Bill 2013. The minerals industry contributes enormously to the security of New South Wales' energy supply. The coal industry, in particular, plays a vital role in providing the State with a secure energy future and helps to keep downward pressure on energy prices. This fact was recognised at the recent NSW Energy Security Summit, held on 26 September 2013. The summit was convened under the chairmanship of the Hon. Martin Ferguson and the Hon. Robert Webster to identify and agree on the major energy security challenges facing New South Wales. The summit was attended by 230 representatives from a broad range of stakeholders, including governments, academia, trade unions, industry, business, farmers and the renewable energy sector. There was general consensus that the State's energy security is being challenged in ways that could disrupt energy security significantly and that these challenges must be met by the wider community.

The summit recognised the key future challenges for energy security as accessing and delivering a secure and affordable gas supply, continuing to grow and develop the coal industry in an innovative way, and balancing the variety of new energy sources in an efficient and cost-effective way. The summit identified and agreed on a range of future actions. This included that the coal industry, as part of the long-term future for New South Wales' energy supply, requires increased investment confidence. The need to increase investor confidence is highlighted in the fact that globally New South Wales' ranking as a mining exploration destination has slipped from 23 in 2008-09 to 44 in 2012-13. This is an unsustainable position for the New South Wales economy. The summit identified that increased investor confidence could be achieved by more certain project planning assessment processes, greater transparency and timeliness in decision-making, and the development of an industry strategy for New South Wales. The minerals industry is also a key focus of NSW 2021, the Government's 10-year plan to make New South Wales number one.

NSW 2021 outlines the Government's agenda for change and sets strategic goals, targets and priority actions. The Government's top 2021 priority is to restore economic growth and to establish New South Wales as the first place in Australia to do business. One of the key targets for the plan's goal of improving the performance of the economy is to boost the value of mining production by 30 per cent. One of the actions to achieve this target is the New Frontiers program. Through this program, petroleum and mineral exploration investment will be attracted to underexplored areas of New South Wales. Goal 3 in the plan is to drive economic growth in regional New South Wales. The Resources for Regions program is one of the priority actions of this goal to increase the share of jobs in regional New South Wales. This program is aimed at relieving infrastructure constraints in regional communities. It will do this by supporting communities affected by mining. In conjunction with Infrastructure NSW, the program will see that infrastructure in affected mining communities is not forgotten. Funds to the tune of $160 million will see to road repairs, in addition to other infrastructure programs.

It is clear that a healthy, active and thriving minerals industry benefits everyone. Increased minerals production means an increase in jobs and, in turn, the creation of jobs means a boost in regional development. There is also potential for the creation of export opportunities. Mining operates predominantly in regional New South Wales and borders agricultural, horticultural and equine enterprises. We must ensure that we stay focused on getting the balance right. Those enterprises can and must coexist and continue to drive our economy forward. I commend the Mining Amendment (Development Consent) Bill 2013 to the House.

Mr CHRIS HARTCHER (Terrigal—Minister for Resources and Energy, Special Minister of State, and Minister for the Central Coast) [6.07 p.m.], in reply: I thank members representing the electorates of Newcastle and Tamworth for their eloquent speeches. I acknowledge their deep interest in the mining industry, their strong support for it, and their continued determination to ensure employment and regional development in New South Wales. Both of them work actively with me, and with other Ministers, in support of their electorates and in support of the economic development of the important regions of the State, in the New England area and, of course, in the Hunter area. I thank the member for Liverpool for his somewhat attenuated response, in which he indicated that he would not oppose the bill but the Opposition reserved the right to do so in the other place. That is perfectly appropriate.

I assure the House—as I made clear and as the members for Tamworth and for Newcastle also made clear—that this bill does not change in any way the development consent requirements under the Environmental Planning and Assessment Act 1979. It does not change any of the environmental requirements; it simply removes a problem that has only now arisen after some 21 years of operation of the Mining Act 1992. It clarifies that issue and it resolves what could be a potentially serious problem threatening some 654 mining leases across the State of New South Wales. The mining industry employs more than 125,000 people, directly and indirectly. It is the principal contributor to the State's exports and an industry that contributes more than $1.5 billion in royalties to the State. This is an important bill and I thank members for agreeing to its expeditious passage. I commend the Mining Amendment (Development Consent) Bill 2013 to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Mr Chris Hartcher agreed to:

That this bill be now read a third time.

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

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2013

Second Reading

Debate resumed from 24 October 2013.

Mr MICHAEL DALEY (Maroubra) [6.10 p.m.]: I lead for the Opposition on the Building and Construction Industry Security of Payment Amendment Bill 2013. At the outset I indicate that the Opposition will not oppose the bill. The history of attempts by industry, community and the Parliament to effect some security, particularly for contractors and subcontractors in the construction industry not only in New South Wales but also Australia, is not recent. Sadly, failures in the building and construction industry are not new. Of course, various factors contribute. The boom and bust history of the industry has seen operators come and go, and it is a competitive industry where margins are tight and competition is fierce. The Collins inquiry instituted by the Government after a string of business collapses and insolvencies in the 2011-12 financial year noted:

> The industry recorded the highest number of insolvencies of any defined industry for the financial year 2011/12, a total of 1,113 or 24.7% of external administrations reported to ASIC [Australian Securities and Investments Commission] across New South Wales …

That is an extraordinary number of failed businesses, which usually are small businesses, in a short period of time. We remember with great regret that during the 2011-12 financial year some notable companies failed: Kell and Rigby—a very old company—in February 2012; St Hilliers, a reputable building company in Sydney, in May 2012; the Hastie Group also in May 2012; Reed Constructions, the beneficiary of a great deal of government work, particularly on Central Coast projects; Southern Cross Constructions; and, of course, even the great Leighton Holdings reported an after-tax loss of $409 million for the 2010-11 financial year. The industry's economic activity is important not only for New South Wales and Australia, but also for many employees.

During the global financial crisis I was a Minister and under Premier Nathan Rees we instigated a great deal of construction work with Federal Government assistance to aid many workers. Our primary tool was to inject money into capital works projects, such as legs of the Pacific Highway. The building and construction industry is important for many people and given the work flexibility when companies move from project to project, sometimes quite a distance away, it is not always practical to have a permanent work force in construction. Those people are the contractors and subcontractors, who are affected when companies go into liquidation.

Over the years several attempts have been made to assist payments to contractors and subcontractors. In 1997 the Carr Government passed the Contractors Debts Act. It encountered problems, and one, of course, was the unequal bargaining power contractors and subcontractors had particularly in dealing with large construction companies. If contractors or subcontractors litigate or even complain about non-payment for work fulfilled, the company has plenty of choice to replace them and then those contractors no longer are considered for further work. Over the years that element has come into play in legislative attempts to provide security for contractors. This particular working relationship might commonly be described as subservient. Of course, after the Contractors Debts Act was passed, the Building and Construction Industry Security of Payment Act 1999 was passed. It introduced things such as new statutory rights for contractors and subcontractors to avail themselves of progress payments.

Provisions also were made regarding the suspension of work for non-payment, the appointment of adjudicators to hear claims, interest on late payments and similar things. By all reports, that Act had a certain amount of success. Then, as I said earlier, in 2011-12 the construction industry experienced a litany of notable failures. In August 2012 the O'Farrell Government established an inquiry into insolvency in the building and construction industry headed by the widely respected Bruce Collins, SC. The inquiry had wide and appropriate terms of reference and made 44 recommendations. At the time it seemed that the Government was of a mind to accommodate many recommendations, even those that may have proved difficult in their implementation. I say that because on 18 April 2013 former Minister Greg Pearce issued a media release in which he said:

> NSW will become the first state to set up a trust fund scheme administered by the Office of the Small Business Commissioner to protect retention sums.

I do not think that has occurred. I ask the Minister at the table to provide an update on that recommendation. Minister Pearce said also that trial project bank accounts would be implemented on government construction contracts where government will directly pay subcontractors, as well as revamped and more frequent financial assessments of contractors. I ask the Minister to advise us as to whether a trial was ever introduced, what the results were if it was introduced, and what the future of that provision might be. There was also talk of establishing an industry advisory task force to develop an education program that targeted subcontractors to improve their business and financial skills in the industry. I ask the Minister to advise us on that recommendation as well as providing a specific response to the recommendation for the retention of trust money account.

The Opposition does not oppose the bill. It addresses a couple of issues that will assist payments and cash flow in the industry and provide some modicum of protection for subcontractors, one of which is claims by head contractors. Currently the law requires that a payment claim by a head contractor under a contract must state that it is made in accordance with the Act. The bill proposes to remove this requirement so that claimants are no longer required to include these words. Instead, all such claims must comply with the Act. In effect, a progress claim which identifies construction work to which the claim relates and the amount that is due will be treated as a valid payment claim for the purposes of the Act. Currently there is no requirement for a payment claim made in accordance with the Act to be accompanied by a statutory declaration or other statement as to the payment of workers and subcontractors.

The proposed amendments to the Act will prevent a head contractor from serving a payment claim on the principal unless the claim is accompanied by a supporting statement in a prescribed form, which includes a declaration to the effect that all subcontractors, if any, have been paid all amounts that have become due and payable in relation to the construction work concerned. Further, a head contractor cannot serve a payment claim on the principal with a supporting statement that is known by the head contractor to be false or misleading. The Act introduces penalties for not providing a supporting statement or for making false or misleading statements as to the payment of subcontractors.

The introduced reforms include: authorised officers that are defined in the bill will be appointed to investigate the head contractor's compliance with the requirements regarding supporting statements. Authorised officers will have the power to require a head contractor or a relevant associated person to provide documents that relate to the payment of subcontractors, if any, and supporting statements that have been made. Progress payments are important because they relate to cash flow of contractors and subcontractors, and there are provisions that relate to the due date for the payment of progress payments. Currently that is defined as the date on which the payment becomes due and payable in accordance with the terms of the contract, or if there is no express provision, 10 business days after a payment claim is made in relation to the payment. That will be changed to provide for progress payments that are claimed by a head contractor to be made 15 business days

after a payment claim is made. For progress payments claimed by a subcontractor that are due from a head contractor, the due date for payment will be 30 days after a payment claim is made, or an earlier date provided in accordance with the terms of the contract.

Progress payments claimed under a construction contract that is connected with an exempt residential building contract, which is a contract for residential building work on such part of premises as the party for whom the work is carried out resides in or proposes to reside in, the due date for payment will be the due date on which the payment becomes due and payable in accordance with the terms of the contract, or if there is no express provision about the matter, 10 business days after a payment claim is made in relation to the payment. These are sensible provisions. To be fair, I am sure subcontractors and employees of contractors and their families will welcome these provisions, but they do fall well short—particularly given the time it has taken to introduce them to this place—of the recommendations that were inherent in the Collins inquiry and the rhetoric of the previous Minister, Greg Pearce. The Opposition will not oppose the bill.

Mr CRAIG BAUMANN (Port Stephens—Parliamentary Secretary) [6.24 p.m.]: I am pleased to support the Building and Construction Industry Security of Payment Amendment Bill 2013. I congratulate the Minister on introducing it in this place. The purpose of the bill is to introduce reforms that will provide greater protection for subcontractors and promote cash flow and transparency in the contracting chain. As my colleagues are aware, I have had a lifelong involvement in the building industry. My father and a partner established a commercial building company 40 years ago. I joined them, we exchanged on 60 residential lots of land in Maitland and 30 years later we are still marketing and building residential housing throughout the Hunter Valley. I was working full time in the industry prior to my election to this place in 2007 and still own two residential building companies. I hold a Bachelor of Engineering degree in civil engineering from the University of Sydney and I am a Fellow of the Institution of Engineers Australia and a Chartered Professional Engineer. I am also a member of the Australian Institute of Building and I hold a NSW Qualified Supervisor Certificate. It is fair to say I know a thing or two about the building game.

It is an exciting and unique industry but one that is fraught with danger because it is the first industry to suffer in times of recession. It is a victim to banks, bureaucrats, bricklayers and shonky competitors. I know firsthand that the impact of insolvency in the construction industry does not stop with the failed company. The ripple effect is felt in my own community every time a builder goes under. Those who pay the price most dearly are the unsecured creditors further along the contract chain, which are most often small businesses. I was devastated to learn that local tradesmen—good hardworking businessmen—had lost hundreds of thousands of dollars when National Buildplan went under while constructing a project in my electorate. They were building the much anticipated HealthOne GP super clinic in Raymond Terrace. The unsecured creditors were the ones to really suffer and I am sorry that the Federal laws surrounding insolvency were not adequate to help them.

The Government recognises that in an industry that provides employment for more than 300,000 people and generates wealth and opportunities for many more in other sectors of the New South Wales economy the impact of insolvency, particularly on small business, needs to be addressed. Due to its competitive nature, margins in the building and construction industry are comparatively low. They are also calculated differently from company to company. In rough terms, for every $1 million a house builder receives, subcontractors would receive $425,000, suppliers $425,000, and GST without input credits would be $6,000, so the remaining $144,000 pays all wages and running expenses, hopefully with some profit left. Builders rely on cash flow to remain in business, but this does not necessitate that subcontractors act as a bank. In a perfect world everything runs to schedule, the whole production chain of suppliers and subcontractors meshes seamlessly and it only rains at night. In a perfect world, solicitors, valuers and banks work quickly and professionally to ensure that loans are processed quickly, legals are sorted efficiently and when the builder submits an invoice, they are paid what is claimed. Unfortunately it is not a perfect world.

In August 2012, the New South Wales Government established the Independent Inquiry into Construction Industry Insolvency, chaired by Bruce Collins, SC. The Government's reform package and response to the inquiry addresses issues relating to the causes and impacts of insolvency through, firstly, strengthening the existing legislative framework; secondly, establishing a retention trust scheme for subcontractors; thirdly, reforms to government construction procurement, including empowering the New South Wales Procurement Board as the peak policymaking body for all government construction projects from 1 July 2013 onwards; and, finally, an education campaign to improve the business and financial management skills of small business operators. The reforms have been developed with a clear understanding of the contribution of the building and construction industry to employment and growth, and that the industry has only relatively recently shown some signs of recovery. The response of the New South Wales Government

strikes a balance between providing greater protection for subcontractors and ensuring that additional regulatory and administrative costs to business are minimised. The bill represents the first phase of the reforms announced by the Government.

The Building and Construction Industry Security of Payment Amendment Bill 2013 maintains this focus on fairness and promoting cash flow within the contracting chain. The proposed amendments will work to reduce the financial stress that delayed payment places on builders, particularly subcontractors. The Government acknowledges that the majority of the industry does the right thing. Through this bill and other reform measures the Government is acting to protect small businesses across the industry. The provisions of the bill are supported by a broad cross-section of the industry and have the strong backing of subcontractors, the Master Builders Association and the largest peak organisation representing small business, the NSW Business Chamber.

The O'Farrell-Stoner Government remains committed to providing a better deal for small businesses in the construction sector. Our reforms are comprehensive, balanced and focused on those areas where we can and should influence behaviour. There is only so much that the State Government can do in this area. Corporations Law, insolvency and bankruptcy are matters regulated by the Federal Government. The final report of the independent inquiry noted that more can and should be done at the Federal level. In summary, this bill provides for fairer payment terms for subcontractors; it will hold head contractors to account for the statements they make about payments to subcontractors; and make it simpler and easier for subcontractors to utilise the Act. I emphasise that this amendment will not apply to a residential construction contract between a builder and a consumer.

The bill is designed to help. I implore subcontractors to understand it and to take advantage of its provisions. I request the Master Builders Association and the Housing Industry Association to actively promote the provisions of this amendment and include them in continuing professional development programs. I also implore subcontractors to carefully examine financial sustainability and cash flow when entering into contracts. I counsel them not to take over work if there is any doubt that their predecessor was not paid appropriately. As I have said, this bill does not apply to residential housing construction, but I leave the House with the thought-provoking situation that culminated 12 months ago when the Procorp group became insolvent.

I know from personal experience that builders competing with Procorp knew they were being undercut on price and that Procorp was entering contracts at less than cost. Competitors noted that neighbouring Procorp projects were slow to start and progressed slowly—clients soon noticed as well. Competitors noted that Procorp subcontractors were actively seeking work from them rather than Procorp—three signs that the company was in all sorts of trouble. Everyone could see the train wreck approaching but there was no mechanism to intervene. Indeed, more work needs to be done, particularly in the residential industry, to protect consumers and creditors. I congratulate the Minister. This bill will make a big difference to commercial builders and their subcontractors. I commend the bill to the House.

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

[*Acting-Speaker (Ms Melanie Gibbons) left the chair at 6.32 p.m. The House resumed at 7.00 p.m.*]

REGIONAL RELOCATION (HOME BUYERS GRANT) AMENDMENT BILL 2013

Bill introduced on motion by Mr Andrew Stoner, read a first time and printed.

Second Reading

Mr ANDREW STONER (Oxley—Deputy Premier, Minister for Trade and Investment, and Minister for Regional Infrastructure and Services) [7.00 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Regional Relocation (Home Buyers Grant) Amendment Bill 2013. This amendment bill proposes legislative changes to the Regional Relocation (Home Buyers Grant) Act 2011, which established a grant scheme for home owner-occupiers in metropolitan areas if they sell their metropolitan home and purchase a regional home as their principal place of residence. The principal Act, combined with these proposed amendments, is designed to address skill shortages in regional areas as well as ease housing pressures in the metropolitan areas of New South Wales—that is, the Sydney metropolitan, Newcastle local government

and Wollongong local government areas. These new measures are part of the Government's response to the final report of the NSW Decentralisation Taskforce. I acknowledge the efforts of the members for Lismore, Bathurst, Albury and Port Stephens, who were on that task force. The task force consulted widely across regional New South Wales with relevant stakeholders and recommended changes to the original relocation grant scheme.

These amendments are intended to improve the targeting of the scheme to economically active applicants and to minimise potential misuse for very short relocations or minor moves. The proposed legislative changes make provision for three sets of amendments to the principal Act that will take effect on 1 January 2014. These three sets of amendments are as follows: first, the extension of the original grant scheme to people residing in metropolitan homes that they do not own—that is, renters—who are prepared to relocate to a regional location in order to enter the regional housing market; secondly, the establishment of a new grant, called the Skilled Regional Relocation Incentive, which will be available to people undertaking an eligible employment relocation or an eligible self-employment relocation to a regional area; and, thirdly, general provisions to enhance and clarify the operation and functioning of the amended Act.

Eligible applicants under the first set of key amendments—the extension of the Regional Relocation Home Buyers Grant—must have lived in one or more metropolitan homes for a continuous period of two years under a lease, licence or other arrangement for valuable consideration. For non-home owners, rental history over a period of two continuous years can be established by a lease agreement or other form of documentary evidence so that people who have been renting without formal leases or who are not signatories to a lease can access the grant. To mitigate the potential misuse of the scheme in areas that border metropolitan and regional boundary lines, the amendment bill introduces "minor moves" clauses, which stipulate that each metropolitan home must be at least 100 kilometres in a direct line from the regional home that is purchased.

The second key amendment—the introduction of the Skilled Regional Relocation Incentive—provides for the payment of $10,000 in two equal instalments to eligible applicants who relocate from metropolitan areas to regional areas to commence employment between 1 January 2014 and 1 July 2015. Importantly, the incentive is open to either relocations for eligible employment, which includes apprenticeships, or relocations for eligible self-employment. Like an applicant for a Regional Relocation Home Buyers Grant, an applicant for the incentive must have resided in one or more metropolitan homes for a continuous period of at least two years. Additionally, the eligible applicant must have been living in a metropolitan area within 12 months of commencing employment in the regional job for which they are relocating.

For the Skilled Regional Relocation Incentive to be payable to an applicant, the applicant must be employed on a full-time basis for at least two years in one or more regional areas. The two-year period does not have to be continuous if the applicant is employed on a full-time basis for at least two out of three consecutive years in an eligible regional location and meets all other eligibility criteria. "Minor moves" provisions preventing relocations less than 100 kilometres from the applicant's former home or place of employment also apply to the Skilled Regional Relocation Incentive. To ensure that the grant is restricted to only genuine regional relocations, the Chief Commissioner of State Revenue has been given discretionary powers under the legislation to call for further documentary evidence that can demonstrate the bona fides of grant recipients.

This initiative is also available to entrepreneurs and the self-employed, including people wishing to join or establish a regional-located partnership. To be eligible for self-employment relocation, applicants must relocate from a metropolitan area for the purposes of self-employment in a regional small business that they purchase or establish. An applicant establishing a regional small business will also be required to complete a small business advisory program approved by the Small Business Commissioner, such as the Small Biz Connect program, unless they are buying, and provide evidence of purchase, of 50 per cent or more of a partnership. Crucially, small business advisory programs such as Small Biz Connect will help businesses familiarise themselves with their new markets and provide business planning and diagnostic services that will ensure their long-term success and sustainability.

The third set of key amendments designed to refine the general scope, functioning and targeting of the scheme include: removal of the scheme target of 40,000 Regional Relocation Grants and the introduction of a funding cap that is subject to the available budget allocation, restriction of the scheme to one grant per household, and the extension of clawback provisions to both the expanded Regional Relocation Home Buyers Grant and the Skilled Regional Relocation Incentive where a person incurs a liability to repay an amount as outlined in the principal Act. These three sets of amendments will enhance the current scheme and provide more opportunities for skilled workers and property buyers to obtain financial assistance to regionally relocate. The Regional Relocation Grant and the Skilled Regional Relocation Incentive both encourage

regional New South Wales to continue its contribution to the prosperity and diversity of the State and should be supported by both sides of the House. The Government has always made known its intention to encourage balanced population and economic growth across the State as part of a suite of programs that have been termed "a decade of decentralisation". The Regional Relocation Grant and the Skilled Regional Relocation Incentive as amended by the bill make substantial contributions to those objectives. I commend the bill to the House.

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

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2013

Second Reading

Debate resumed from an earlier hour.

Mr TROY GRANT (Dubbo—Parliamentary Secretary) [7.10 p.m.]: The object of the Building and Construction Industry Security of Payment Amendment Bill 2013 is to amend the Building and Construction Industry Security of Payment Act 1999 with respect to payments to be made under construction contracts, including the timing of and other requirements for those payments. During my 2½ years in this place I am not sure there has been another piece of legislation that is more contemporary, more needed or more relevant to communities within the Dubbo electorate. During approximately the past 18 months communities in Dubbo have been engulfed by the collapse of the construction industry, which is becoming an epidemic across the State. Communities and subcontractors in my electorate have had to bear the brunt of practices, operations and terms of trade of head contractors who, frankly, have let them down. This bill, which I am pleased to support, is the first tranche in the Government's response to address and redress the situation. I commend the Minister for Finance and Services, the Hon. Andrew Constance, for introducing this bill.

The purpose of the bill is to amend the Building and Construction Industry Security of Payment Act by introducing prompt payment provisions, establishing a legal requirement that head contractors provide the principal with a written supporting statement that all subcontractors have been paid, and making it easier for subcontractors to make a claim under the Act. It will delight subcontractors in my electorate to know that the bill will introduce maximum payment periods to head contractors and subcontractors, create a legal requirement that head contractors submit a written statement declaring that subcontractors have been paid what is due and payable when submitting a payment claim to a principal, and remove the requirement that a valid payment claim state that it is being made under the Act. As we heard from the member for Port Stephens and the Minister during his second reading speech, the bill implements key recommendations from the 2012 Independent Inquiry into Construction Industry Insolvency. The bill will address a finding of the inquiry that entrenched delay payment practices of head contractors averaging 60 days and often extending up to 90 days has led to financial stress and risk of subcontractor insolvency. The Dubbo electorate is currently experiencing that risk and stress by the bucketload.

Unfortunately, the National Buildplan Group in Dubbo recently collapsed. It was engaged in the construction of the Dubbo subacute health facility and the enabling works for the $80 million Dubbo hospital upgrade. In addition to that, some weeks ago the InVogue Project Group also collapsed and stranded my subcontractors after completion of works at the Service NSW facility. I will not stand for the practices engaged in by those companies or their ad hoc and despicable treatment of my subbies. The subbies in my electorate know that I am fairly and squarely in their corner. I have looked them in the eye throughout difficult weeks as they have had to lay people off and reconsider whether they can sustain the multimillion dollar losses incurred across the industry. They have also had to assess the continued viability of their businesses. The widespread practice of head contractors falsely swearing statutory declarations that subcontractors have been paid is another key finding of the inquiry that my subbies have experienced. Those head contractors should be condemned for that and I stand in this place and condemn those who have left my subcontractors swinging in the breeze. The final finding of the inquiry was that the requirement of the Act that a payment claim state that it is being made under the Act was inhibiting its use by subcontractors. That has also occurred in my electorate.

Contracts used in the building and construction industry, including the New South Wales Government standard construction contract, often require the head contractor to submit a statutory declaration to the principal as a condition of payment. This is to confirm the payments due and payable to the subcontractors and suppliers have been made. Describing the use of statutory declarations as a mass dishonesty and a joke, many witnesses to

the inquiry pointed to the lack of enforcement of statutory declarations as the primary reason that the practice of falsely sworn declarations was so prevalent. That was a significant issue in the circumstances surrounding the business collapses in Dubbo that impacted the subcontractors.

The amendments in this bill go to the heart of addressing that problem. The bill will ensure that progress payments from principal to head contractor will be due and payable 15 days after the claim date and that progress payments to subcontractors will be due and payable 30 business days after the claim date. My subbies will no longer have to wait 60 to 90 days or even longer for delayed payments that accumulate and threaten their business. The contract terms that provide for payment outside these periods will now be void. That subverts another modus operandi of head contractors who engage in the un-Australian practice of denying that a deal is a deal and not honouring their debts. The bill will introduce a legal requirement that when making a payment claim to a principal a head contractor must provide information in a prescribed form stating that all subcontractors have been paid what is due and payable under contract. As I said earlier, the bill will also remove the requirement that a payment claim state that it must be made under the Act.

The swearing of statutory declarations is regulated under the Oaths Act 1900 and the responsibility for enforcement rests primarily with New South Wales police. By establishing a legal requirement under the Act that head contractors attest to subcontractors being paid the Government is making a clear statement that head contractors must be held to account. The way in which they will be held to account will be music to people's ears, because those grubs deserve nothing less than the penalties outlined in this bill. The maximum penalty for a breach of the requirement is $22,000. Importantly, it will be an offence under new section 13 (8) to knowingly provide false or misleading material in that statement. This provision goes directly to addressing the problems highlighted by the inquiry and experienced in my area. The maximum penalty for a breach of the new section will be $22,000 or three months imprisonment, or both. That is what they deserve.

Clause 36 of the bill enables the director general of the Department of Finance and Services to appoint officers for the purpose of investigating compliance with the new provisions. Authorised officers will be able to request in writing from a head contractor all documents relating to the payment of subcontractors by or on behalf of the head contractor in respect of specified construction work. Refusal or failure to do this will also lead to three months imprisonment or a $22,000 fine, or both. The Government's focus in relation to the supporting statement provisions will be on the commercial and civil construction sectors. The Minister noted in his second reading speech that the Department of Finance and Services will publish guidance for the industry on how to comply with the provisions and provide examples to illustrate what the regulator considers to constitute breaches of the law. The proposed amendments in this bill relating to supporting statements directly address critical issues identified by the inquiry in this area. Greater transparency in relation to payment practices between the parties in the contracting chain will assist in developing a better regulated and informed industry.

The Government acknowledges that there is still much more to do. I have complete faith that the Minister will undertake the remainder of the work in this very complex area. I cannot thank him enough on behalf of the Dubbo electorate for this first step along a long road that will lead to the surety they seek but so dastardly have been deprived of in recent times. I support the bill.

Mr JOHN BARILARO (Monaro) [7.20 p.m.]: I support the Building and Construction Industry Security of Payment Amendment Bill 2013. I have been listening to the good member for Dubbo, who has been fighting for the cause. Unfortunately, his electorate has suffered a double-whammy through head contractors becoming insolvent and companies falling over. That has produced a domino effect that has impacted on small businesses and subcontractors, each of whom probably will be looking at having a very lean Christmas this year as a result of unpaid debts. I understand from what I have read—and I am sure the member for Dubbo will correct me if I am wrong—that unpaid debts amount to hundreds of thousands of dollars, or tens of thousands of dollars in the case of individual contractors. In regional centres of rural communities, such as Dubbo, small businesses really feel the pain of default. The wider community also feels the pain because we rely on small businesses as part of the engine room of the State's economy.

My background includes conducting a small business in manufacturing and being a supplier to the building sector. Over my 25 years as a supplier in the industry, I have endured occasions when head contractors, builders and companies became insolvent. I have lost money but luckily enough the amounts did not send me under. At the same time, the amounts still hurt and it is money that will not be spent in my community, invested in my business or used to create jobs that rural and regional communities need. We know that insolvency is a problem that plagues small businesses across the country that are operating in a very volatile environment. Over the past two years, in excess of 1,000 construction companies in the residential and commercial construction

industries entered into external administration. That is a sign of the tough environment in which businesses operate. That is why it is important for this Government to create, as best it can through legislation, an environment in which small and large businesses and industries are afforded protection. That is what this bill seeks to achieve.

It is important to understand and appreciate that everyone in the private sector enters into commercial agreements with their eyes open. With the current operating environment being so volatile and with not as much work being available as companies would like, they may take greater risks when opportunities emerge by entering into arrangements or deals for payment with head contractors and larger companies simply to win the contracts, thereby exposing themselves to higher levels of borrowing and indebtedness. At some point each and every business operator makes a commercial decision about extending their debt limits. At times they feel pressured into making an arrangement when the due date by which they expected to receive income has come and gone and payment is overdue beyond 90 days. The arrangement might involve the threat of not being paid at all if the operator does not extend credit. That is a real problem and some businesspeople become caught in a cycle of constantly chasing payments.

While there has been a boom and industry has been ticking over during the past 10 years, sometimes turnover hides the fact that profit margins are not sufficient for businesses and head contractors. But as the market tightens in a very competitive environment with the Australian dollar making trading conditions very competitive and the costs of labour and materials increasing, we know that profit margins are being squeezed. We also know there are many players in the field who are trying to fight back by winning government contracts or other very limited construction contracts. There is a sense of trust between companies and government. I know from past experience of taking on a contract with a government agency that I felt assured that I would be paid. Since public works were outsourced to the private sector and the government and taxpayers are paying the bill at the end of the day, the profit may not flow through to the end user. There are the ever-present commercial risks which must be taken into account and which industry must address.

There is only so much a government can do. The last thing that business needs is additional red tape. The bill represents a further attempt by this Government to minimise the impact of red tape on business, but a balance must be struck between ensuring that the legislative framework protects industry as well as small business and contractors while not constraining business with red tape. We know that the construction industry is important to the State's economy. We can talk about the mining boom and other sectors and other industries, but we know the building industry employs in excess of 300,000 people in this State and that we rely on it. An examination of government policy and legislation, such as the first home owner's grant for new construction, demonstrates the reason for that incentive, which is that the construction industry is an important part of the New South Wales economy. Yesterday in the House the Treasurer spoke about the improved State budget coming off the back of stamp duty, which essentially means that the construction industry is expanding. We know that demand for housing in Sydney has increased and that the Government's policy will continue to develop the building industry. That is very important and we need to do that.

This bill is about payment and introducing a maximum payment period for head contractors and subcontractors. The bill creates a legal requirement for head contractors to provide a written statement declaring that subcontractors have been paid and the amount that is due and payable when submitting a claim for payment to a principal. The bill also removes the requirement for a valid claim for payment to state that it is being made under the Act. When introducing legislation of this type, we know it is important to engage with industry, the community and various sectors. I know that the bill is supported by key industry stakeholders such as the Master Builders Association, the NSW Business Chamber, the Small Business Commissioner, the Construction, Forestry, Mining and Energy Union and subcontractor organisations. The Property Council of Australia has expressed concern about the reduced time frame for the assessment and payment of claims and has noted that some members of the Property Council who share this concern have operations in Queensland and other States where prompt payment provisions were established in 2004.

The member for Dubbo mentioned during debate that this bill might represent the commencement of a new process and may present further opportunities for government to become involved in protecting small businesses, contractors and subcontractors. As the member for Dubbo rightly stated, we also must ensure that head contractors who falsify statements and information provided to government and the community are dealt with. I note that new section 13 (8) creates a separate offence for knowingly providing a supporting statement that is false or misleading that attracts a maximum penalty of $22,000 or three months imprisonment, or both. Those provisions introduce an element of transparency into the payment practices that operate in the industry and provide a clear incentive for head contractors. The problems with prompt payment exist throughout the

community. When we hear a story about a company that goes belly up, such as National Buildplan and InVogue, the community asks why the Government does not pay the subcontractors who have missed out. Unfortunately the taxpayer has already paid and we cannot double dip and hit the taxpayers twice. However, we must be vigorous in scrutinising businesses we deal with. We should be checking our lists of head contractors and putting the razor through the ones we think are questionable.

We must restore confidence to contractors, the business sector, small business and everyone else by making it known that we as a government have identified that prompt payment is a problem. We know that the markets are volatile and very tough and that the construction industry is a tough environment in which to operate, but we must ensure that we do not allow small businesses to be ripped off by larger companies. A number of exemptions have been included, especially relating to the residential market. That is fine. However, it is important that in future there should be protection for a greater number of small businesses, be it residential or commercial. In his speech the Minister acknowledged and identified the key issues we are facing. However, we are limited in what we can and cannot do. I congratulate the Minister's office and the staff who worked diligently on preparing the legislation and the departmental staff who consulted with the community and the sector. This is an important step forward in protecting the industry. I commend the Minister and I commend the Building and Construction Industry Security of Payment Amendment Bill 2013 to the House.

Mr ANDREW ROHAN (Smithfield) [7.30 p.m.]: I speak in support of the Building and Construction Industry Security of Payment Amendment Bill 2013. It follows the Building and Construction Industry Security of Payment Act, the principal Act. Its objective is to reform payment behaviour in the construction industry by ensuring that any person who undertakes to carry out construction work, or who undertakes to supply related goods and services under a construction contract, is entitled to receive and is able to recover progress payments in relation to that work. The building and construction industry in New South Wales suffers from a history of high levels of insolvency. This is marked by the fact that in the 2012 fiscal period the industry accounted for 25 per cent of all external administrations reported to the Australian Securities and Investments Commission in New South Wales.

There is a systemic downward pressure on those who rely on payments from contracting principals, in particular subcontractors and creditors. This occurs as a trickledown effect, with each party down the payment chain affected by an increased need for payment. This is due mainly to the inadequacy of the provisions of the principal Act in fulfilling the objectives of the Act and has been evident in three ways: first, there has been a weakening of the subcontractor's bargaining strength arising from tight market conditions and escalating competition for limited work; secondly, there has been an imbalance in the initial bargaining position between the head contractor and the subcontractor, with the latter initially paying for materials and labour; thirdly, there has been the predatory use of the Act to the head contractor's advantage. Consequentially, many subcontractors are tied up due to late payments and many other issues that they encounter in the industry and risk becoming insolvent.

As the report by the independent Inquiry into Construction Industry Insolvency pointed out, the ability of a subcontractor to remain solvent depends, first, upon retention money. Retrieving the retention money, which is usually written off in the books—especially when the head contractor becomes insolvent—has proved to be cost ineffective and time consuming. Secondly, the barriers to using the court system have an effect on solvency. Bargaining positions are unequal between most subcontractors and their one-ups on the contract chain, legal proceedings are costly and a lack of legal knowledge results in an incentive to look for expeditious—but not necessarily fair—resolutions. Thirdly, the fact that payments can be delayed up to 90 days substantially increases the chances of insolvency. Lastly, the ability of subcontractors to enforce judgements has been low.

The New South Wales Government achieves a resolution of those issues through the introduction of this bill in several ways. The response maintains an emphasis on the promotion of cash flow and fair treatment of all parties involved in the contract. First, prompt payment provisions now require that a progress payment be made in accordance with the applicable terms of the contract. The new sections now require payment between a head contractor and principal to be made within 15 business days of the making of a payment claim. It also requires progress payments to be made between a head contractor and subcontractor, between subcontractors, and between subcontractors and suppliers, within 30 business days after the making of a payment claim. These period limitations for payment stimulate a faster cash flow, which runs down the stream of payees and acts as a safety net. Procedures for recovery of progress payments and payment claims, however, remain the same. Any provisions within a construction contract that stipulate a limit longer than the new statutory limits are void.

Furthermore, the New South Wales Government recognises the industry's common usage and understands the administrative practices, including relationships between head contractors and subcontractors and between subcontractors. The bill removes the existing requirement that security statement claims are to include a reference that they are made under the Act. The use of this reference has been counterproductive in fostering a positive working relationship between subcontractor and head contractor. Secondly, the ability of parties to verify payment claims is increasingly important, given the reports of false declaration statements by head contractors of making payments to subcontractors, both directly and indirectly hired by the former. The bill inserts a new requirement for head contractors to include a supporting statement along with the payment claim to the principal, declaring that outstanding payments have been settled in full to each subcontractor and supplier.

Thirdly, new penalties will apply for breaches of these supporting statement provisions. These penalties are applicable to both the making of knowingly false or misleading supporting statements as well as non-compliance of providing a statement. These new provisions engage a practice of transparency and timely payments by head contractors—both much-needed factors within the building and construction industry. The cash flow between principals, head contractors, subcontractors, suppliers and creditors is the life-blood that flows from the heart of the building and construction industry. This bill is the defibrillator: It seeks to jumpstart a slowing building and construction industry in New South Wales by protecting the interests of subcontractors and suppliers down the payment chain through having progress payments made in a timely manner. I commend the Building and Construction Industry Security of Payment Amendment Bill 2013 to the House.

Mr ANDREW FRASER (Coffs Harbour—The Assistant-Speaker) [7.39 p.m.]: I commend to the House the contributions relating to sections of the Building and Construction Industry Security of Payment Amendment Bill 2013 given by my fellow Nationals members. I put on record tonight three names that I hope no-one will forget: Perle, St Hilliers and Build Plan. Those three firms have cost my electorate millions of dollars. For example, the local hairdressing salon loses business because a subcontractor's wife has to cancel a hairdressing appointment because her husband has lost upwards of $600,000 to these mongrels in Sydney. I commend the report of Bruce Collins, QC, and I commend the Minister for bringing this bill before Parliament. I gave evidence to Bruce Collins, QC, in relation to the builders and subcontractors in Coffs Harbour who were taken to the cleaners.

Unfortunately, I do not believe this legislation covers everything that it needs to cover. Not one of the directors of Build Plan, Perle or St Hilliers have been prosecuted for signing false statutory declarations—none of them. They should be in jail, as the member for Dubbo said. This legislation will put people in jail. Those people operating under the current law should be in jail, but they are not. While this bill is a step in the right direction, it does not go the full distance. We need to ensure that the government tender process prevents these practices from happening in the future. Head contractors from Sydney come to regional New South Wales, cut the guts out of local contractor prices and then dud them by not paying up. Many people worked for the three contractors I mentioned on the basis of cutthroat prices just to keep their businesses ticking over, but at the end of the day they lost millions of dollars.

Under the stimulus package Lend Lease ran a tender process on housing and education in this State and has not been held to account. It took literally hundreds of millions of dollars out of that process because the State Government did not have the facilities to ensure proper tenders. Sydney shop-fitting company Perle was awarded about $30 million worth of contracts across New South Wales to build Department of Housing units. The process was an absolute disgrace. Before I leave this place I want a government tender process that ensures payment for local builders, such as those who demonstrated their capability by completing the Harbour Drive Coffs Harbour project. In the end that project came under public works because St Hilliers, which was appointed to replace Perle, also went belly up. So we suffered a double loss.

Even though local contractors gained some money from the second contract, they lost overall. That really hurts the local economy. The 10 per cent to 20 per cent ripped from the top by companies such as Lend Lease, Perle, St Hilliers and Build Plan should be paid as bonus to country contractors to make sure that their price, whilst not as competitive as their Sydney cousins, ensures job completion. Local prices should be loaded by 10 per cent rather than paying money to some Sydney crook. That would ensure a quality job is completed and our communities can continue to rely economically on the building industry, which is the foundation and cornerstone of our regional and rural economies. I commend the legislation to the House.

Mr JOHN WILLIAMS (Murray-Darling) [7.42 p.m.]: I congratulate the Minister and his staff on taking this necessary action to protect subcontractors in the event of a principal contractor's operational failure. Members of Parliament do not want local contractors telling them about a government contract that has gone

bad. An electrical contractor and his father came to see me. He had taken a contract with Build Plan on a rehabilitation facility at the local hospital. He knew he was not going to get paid, but they held a gun to his head to fulfil his contract. At the end of the day he was $460,000 out of pocket. No small business in country New South Wales could support that sort of loss. Non-payment of subcontractors is a huge problem and far too often the local member of Parliament is the first port of call when they tell their story.

We do not accept Sydney contractors ripping off local people, but that is happening and it cannot continue. The Building and Construction Industry Security of Payment Amendment Bill 2013 will put in place protections for innocent contractors who take on a project with the best intentions, do quality work and then do not get paid. It is totally unacceptable for a principal contractor not to pay subcontractors for work fulfilled. Too often in the past principal contractors used pyramid contracting and ultimately the remote contractor that took over the contract became one of about three tiers to go through in order to talk about paying the subcontractor. There are too many instances of quality subcontractors being ripped off. This bill goes a long way towards correcting that anomaly. Hopefully, with these provisions fewer people will have stories to tell about not getting paid for work. I support those subcontractors who have not been paid but, unfortunately, some of them could not continue their business. These provisions need to be implemented so that subcontractors can quote, tender, do the job and get paid for an honest day's work.

Mr ANDREW CONSTANCE (Bega—Minister for Finance and Services) [7.44 p.m.], in reply: I thank members representing the electorates of Maroubra, Port Stephens, Dubbo, Monaro, Smithfield, Coffs Harbour and Murray-Darling for their contributions to debate on the Building and Construction Industry Security of Payment Amendment Bill 2013. The member for Coffs Harbour has been a tremendous advocate for this reform. He has dealt with rotten situations facing businesses and subcontractors in his electorate. I have enormous sympathy for him because under the last Government I watched helplessly as a head contractor refused to pay subcontractors. Despite signing a statutory declaration, Nebax left a group of subcontractors in my part of the world—fencing subcontractors, hardware providers, et cetera—out of pocket. Losses of $10,000, $15,000 or $20,000 might not sound much to a head contractor, but for those hardworking businesspeople it is the difference between the doors being open or shut. The member for Coffs Harbour has suffered this problem in his electorate more than most of us. What Perle did was simply outrageous, and I thank him for all he did to try to remedy the situation.

This bill is the first of a number of steps required to address the problem. Across the State subcontractors are owed more than a billion dollars after head contractors went into liquidation. Of particular interest to the member for Coffs Harbour is that next year we will run a trial of project bank accounts. I assure him that regional New South Wales will benefit from that trial. We hope for a much-improved outcome as a result. The other important point relates to procurement reform. We have not fully achieved improvements to procurement, but some important steps have been made to assist particularly small business in country areas. Regarding the process of assessing the financial capacity of contractors engaged by government, I am advised that a new comprehensive system commenced in March. Importantly, rolling financial assessments of contractors will ensure that their ongoing capacity and financial health are checked more thoroughly and frequently.

Obviously, we hope to deal with all situations but, unfortunately, there is no fool-proof system when head contractors engage in other commercial work. It is important to recognise that the Government's efforts are making the necessary inroads. Next year's project bank accounts trial is a good start. Obviously, ongoing financial capacity assessments and this legislation are particularly important steps, given the obvious challenges and difficulties in pursuing those who falsely sign statutory declarations. This bill signals a change; it contains provisions that send a message that penalties will be imposed by the Department of Finance and Services. In my role as a Minister, I assure the House that the agency will be clearly instructed to aggressively pursue anyone who is doing the wrong thing by subcontractors. The member for Maroubra raised some points about the Industry Advisory Group which is meeting next week. In relation to the statutory retention trust, the Government will soon release a discussion paper on this topic and I will invite all stakeholders to take part and comment on what will be the first statutory retention trust fund for subcontractors in Australia.

As all members heard, the purpose of the amendments is to enhance the flow of money through the contractual chain to reduce the financial stresses that result from late or delayed payment. This is an important step. In its simplest form, the bill will introduce reforms to provide greater protection for subcontractors and will promote cash flow and transparency in the contracting chain. As I indicated in my second reading speech, the amendments will ensure that subcontractors receive progress payments no later than 30 business days once a valid payment claim has been submitted. Of course, this amendment will have no effect on those clients who have already paid within the maximum period set out in the amendments.

Many members raised the issue of government contracts. Government agencies are not exempt and will have to adhere to the new requirements. As I indicated at the outset, this is one part of a package of reforms that will start the ball rolling to deal with the challenges faced by subcontractors in this State. I welcome the fact that this bill has bipartisan support. Nobody in this House wants to see subcontractors subjected to the practices of the past. We all know that there needs to be a cultural shift. The amendment bill and a number of other strategic initiatives are designed to improve the opportunities for subcontractors in this State. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Mr Andrew Constance agreed to:

That this bill be now read a third time.

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

COMBAT SPORTS BILL 2013

Second Reading

Debate resumed from 23 October 2013.

Ms LINDA BURNEY (Canterbury) [7.55 p.m.]: I lead for the Opposition in debate on the Combat Sports Bill 2013. This is an important bill, although it may not have the precedence of some other legislation. First, the Opposition does not oppose the bill. An amendment may be moved in the upper House, but that will be determined over the next two days. I acknowledge the Minister for Sport and Recreation and her staff for the collaborative way in which we have worked on the bill. While Minister Upton is a new Minister, the approach taken on this bill was welcomed by me, the Opposition and her staff. I also acknowledge Lynda Voltz of the Labor Party in the upper House for her assistance with this bill. Many people in the community do not understand the concept of combat sports. These sports are new to me. Many of them do not have a high profile and are not well known. But lots of people are involved in combat sports so there is a real need for further regulation of them in New South Wales.

The bill seeks to regulate the combat sports industry by requiring the registration of combatants, industry participants and promoters. The bill also requires permits for combat sports contests and to approve amateur bodies responsible for amateur combat sports contests. It regulates the conduct of combat sports contests, including providing for health and safety requirements, which is important. It provides for sanctions and enforcement of the proposed Act, including orders excluding people from the combat sports industry. The bill also provides for the continuation and regulatory functions of the Combat Sports Authority of New South Wales. Finally, the bill deals with the right to appeal against certain decisions under the proposed Act to the Administrative Decisions Tribunal. The key point is that the bill builds on the work of Labor in 2008 to extend the regulation of combat sports to new and emerging combat sports. That is an important point. This is a movable feast as sports combine and new sports develop and are introduced into Australia. At the time, the former member for Oatley said:

> The advent of these sports, while they might not be everyone's taste, has required a response to ensure that competitors are not exposed to unnecessary risk.

The bill includes provisions to avoid those unnecessary risks. The Opposition welcomes the opportunity to further strengthen the protection for combat sports participants. It appreciates the consultation that has occurred with the industry. Members on this side of the House support moves to widen the criteria for professional combat sports contests. We support the move to include those commercial combat sports bouts for which tickets are sold. The priority needs to be focused on ensuring that these sports are as safe as possible because it is often young people who engage in emerging sports. A real concern shared by many involves recent police raids that

resulted in large sums of money being withheld from a combat sports promoter who could not account for its origins. It is believed some events are used by organised crime syndicates for money laundering, which is a serious problem. I am also concerned that despite our previous efforts to manage the risk, part of the industry is avoiding regulation or it is unregulated.

The previous bill stated that only combatants who received a monetary prize would be covered by the definition of "professional combat sports contest". The extension of registration for combatants is supported, but with concerns. It was obvious that those amateur permits were being used for entertainment purposes and that entry fees of between $25 and $50 were being charged. I am concerned that the payment of $20 or $30 is the only way that a profit can be made. The aim of this bill is to protect all participants in any combat event that is conducted for profit. The clear concern is that many young participants face the same risks as professionals, but with no support. An issue that was addressed in consultation with the Minister's office was ensuring that a medical practitioner is present throughout these events. There was also an issue regarding the delegation of permits to peak bodies for a particular sport. As I said, we will deal with those matters in forthcoming days.

The Minister's explanation of the redefinition of people involved in regulation under the Public Service Act addresses some of our concerns but, as I have said, discussions will be ongoing. Labor also supports the minor amendments proposed in the bill to tidy up drafting issues. This bill should not be considered as peripheral. The bill covers not only combat sports such as judo but also emerging combat sports. We need to be vigilant and to put in place safeguards around regulation and medical supervision to avoid unnecessary injury. Indeed, an unfortunate incident in the past drew combat sport into focus. The death of Mark Fowler is still before the Coroner. His death is a stark reminder of the nature of these sports and the importance of regulation. I again thank the Minister for her collaboration and for the open and regular discussions we have had with her office. Opposition members will not oppose the bill in this place but we will continue to work towards resolution of the outstanding issue that I referred to earlier.

Mr JOHN BARILARO (Monaro) [8.01 p.m.]: I support the Combat Sports Bill 2013. At the outset I acknowledge the bipartisan support of the member for Canterbury who led on behalf of the Opposition in debate on this bill. The aim of the bill is to reduce the ability of criminal elements to become involved in combat sports and to strengthen the integrity of the combat sports industry. Earlier this year the Australian Crime Commission released its report into organised crime and drugs in sport, which identified the widespread use of illicit and illegal substances by professional athletes in Australia and links between suppliers of these substances and organised crime. Professional boxing was specifically named in media reports in relation to the commission's report. Any sport with a question mark over its integrity will not enjoy public confidence and over time will become nothing more than a sideshow, lacking the type of credibility that defines what sport is about.

Combat sports, due to a number of factors, are particularly vulnerable to the activities described in the report of the Australian Crime Commission. First, most Australian sports have strong organisational structures that reach from national to grassroots level. This structure enables policies and rules to be applied across the sport. It supports the establishment of governance frameworks that encourage open, fair and transparent decision-making and allow integrity issues to be dealt with internally. But combat sports are unique. No overarching body has control and influence across the range of sports. Many independent governing bodies are involved in combat sports and a large number of private for-profit businesses operate in the industry. Some are major, sophisticated global businesses that take a highly professional approach to managing their brands, image and business operations.

The majority of Australian-based organisations are relatively small, resource limited and unsophisticated in their operations and approach to governance. Thus, the structure of the industry leaves it weak in preventing or limiting criminal involvement. The combatants involved are usually highly focused and determined individuals who train hard and want to win contests. But, like other athletes, they are also vulnerable to the temptation of performance enhancing drugs and supplements to obtain the winning edge. Add to the mix that combat sports are very popular and spectators are willing to pay good money to watch these contests. The biggest audiences are those who attend major professional bouts. However, there is also a substantial market for smaller purely amateur, or mostly amateur, events with just a couple of professional fights.

The final element in the mix is the increased interest in sports betting and easily accessible technology that enables betting on all types of sports and activities. Betting is only allowed on boxing contests in New South Wales, but this is not the case in other States or countries. Sport and sports betting operates in a global marketplace, and offshore markets increase the likelihood of corruption and criminal involvement in illegal betting in New South Wales. When these factors are considered in combination—the structure of combat sports,

the combatants, the availability of drugs, a willing spectator audience and the opportunity for betting—it is evident that combat sports are in an area where the activities outlined in the Australian Crime Commission report could easily merge to form an environment ripe with integrity risks and open to criminal organisations becoming involved.

The bill provides for a strengthened regulatory approach to combat sports in New South Wales. It improves the capacity of the Combat Sports Authority to prevent or remove persons from operating in combat sports where integrity and security risks are identified. It does this through improved "fit and proper person" assessments and the introduction of a security determination process, involving police checks for persons seeking roles with the greatest ability to undermine the integrity of contests. It retains the disciplinary actions currently available to the authority to cancel, suspend or vary the conditions of a person's registration for disciplinary breaches. It also contains new powers for the Combat Sports Authority to make prohibition orders that stop people working, competing, holding contests or attending combat sports training environments.

The authority can make such a prohibition order if it has established grounds on which an order can be made and a person has not, within the specified time period, shown sufficient reasons as to why an order should not be made. This extends the reach of the authority beyond persons who are registered, to those in roles within the industry that are not required to be registered, those on the periphery, and those providing goods and services to persons in the industry. This addresses the identified limitations of the current legislation in which the authority only has the ability to discipline registered persons.

The bill also provides the authority, combat sports inspectors and police with the ability to issue directions not to hold or to stop contests so they will have greater capacity to act and address safety, integrity and security issues as they arise. It modernises how combat sports in New South Wales will be regulated. This is essential in an environment where it seems that criminal organisations have the capacity to infiltrate any sport and taint sports stars by exposing athletes to illicit and illegal drugs. This leaves them vulnerable to persuasion to match-fix in order to capitalise on the profits available through new sports betting technologies.

Other New South Wales legislation such as the Racing Administration Act 1998, in relation to betting, and the Crimes Amendment (Cheating at Gambling) Act 2012, in relation to match fixing, are also relevant to upholding the integrity of combat sports contests, as is Federal anti-doping legislation. The introduction of this bill aims to reduce the ability of criminal elements in society and crime organisations to become or remain involved in combat sports. It is a necessary step in the ongoing efforts to maintain trust in our sports industry and ensure that essential sport principles such as fairness, integrity and the notion of competition are upheld. I congratulate the Minister. I also thank the hardworking staff in her office and in the department who have worked together to produce a bill that meets the needs of this industry, which is in need of regulation and governance. I commend the bill to the House.

Mr NICK LALICH (Cabramatta) [8.08 p.m.]: I support the Combat Sports Bill 2013 which has as its aim to regulate the combat sport industry by requiring the registration of combatants, industry participants and promoters; requiring permits for combat sport contests and approving amateur bodies responsible for amateur combat sport contests; regulating the conduct of combat sport contests, including providing for health and safety requirements; providing for sanctions and the enforcement of the proposed Act, including orders excluding persons from the combat sport industry; providing for the continuation and regulatory functions of the Combat Sports Authority of New South Wales; conferring a right to appeal against certain decisions under the proposed Act to the Administrative Decisions Tribunal; repealing the Combat Sports Act 2008 and making other consequential amendments as a result of the enactment of the proposed Act; and enacting savings and transitional provisions as a result of the enactment of the proposed Act.

In our society today combat sports and martial arts continue to be popular both as a recreational activity and as a way to maintain fitness. Years ago martial arts from Asia were all the rage—for example, karate; kung-fu, which is still very popular in my electorate of Cabramatta; taekwondo and many others. Currently there is a spike in the popularity of sports such as Muay Thai boxing, jujitsu and other mixed martial arts. If members drive through my local area these days—and I imagine it is the same in other electorates—they will find many gyms which offers classes and training in some kind of boxing. This bill will regulate all the following combat sports: boxing; kick-boxing, including Thai, Laos, Burmese and shoot boxing; Muay Thai; cage fighting; ultimate fighting; combat 8 and kyoshi.

The bill regulates only combat sports contests which are watched by members of the public for a fee; arranged or held on a for-profit basis; held on premises licensed under the Liquor Act 2007 or the Casino

Control Act 1992; or where at least one of the combatants is competing for a monetary prize or valuable reward, excluding trophies and belts. As my colleague has already said, the Labor Party has some concerns regarding this bill. Firstly, by giving the power to the industry to handle the regulation of amateur permits, there is a potential for misuse and abuse. Amateur permits are being used to bypass regulations, with 39 breaches of the Act recorded by the department so far. Following on from that, the department has not required information to be provided for amateur permits and the current permits issued do not meet the requirements of the 2008 bill.

The Government is just shifting blame by pushing responsibility onto the industry. Another issue is the removal of the requirement for a medical officer to be in attendance at a contest. I took my grandsons to see some professional wrestling last Saturday. Although the wrestling at licensed clubs looks fake, whether one wants to call it professional or amateur—and the contestants do choreograph it in that they are very au fait with how to fall, how to hold themselves and how to make noise for the crowd, for little kids it seems to be fair dinkum. They do not see it as a game. They think those wrestlers are really hitting each other. And when the wrestlers threw each other over the top of the ropes and onto the floor a few times, a couple of the wrestlers did not get up off the ground very quickly. Two of them had to be helped off the stage at the end of the contest. I do not know whether or not that was part of the act, but it took them a long time to get off stage. I thought to myself that if it had been me I would have got off that stage a lot quicker than they did.

Of course when I got home my young grandchildren started throwing each other around the lounge room and I had to make sure that they did not hurt each other. Many call wrestling fake, but the ultimate fighter style of wrestling is very dangerous. As I have said these combat sports continue to grow in popularity. One has only to look at the crowds and the pay per view ratings for Ultimate Fighting Champions events. We cannot, however, discount the inherent dangers involved in such combat. Any reform that loosens regulations and allows the proliferation of danger during a bout is not good. I commend the bill to the House.

Mr CHRIS PATTERSON (Camden) [8.13 p.m.]: I support the Combat Sports Bill 2013. This bill amends the Combat Sports Act 2008. Combat sports are defined as a sport, a martial art or an activity where the primary objective of each contestant is to strike, kick, hit, grapple with, throw or punch one or more other contestants. The aim of the bill is to better regulate combat sports for the health and safety of those who participate in contests. This bill follows a review of the Combat Sports Act 2008 in which stakeholders were invited to comment on a discussion paper, take part in an online survey and take part in workshops with promoters, managers and sanctioning bodies.

Under this bill, the Combat Sports Authority of New South Wales will continue to regulate contestants and those in the industry participating in combat sports contests. They are defined in the bill as contests, displays or exhibitions of combat sport to which the public are admitted on payment of a fee; which are arranged or held on a for-profit basis; or held on premises licensed under the Liquor Act 2007 or the Casino Control Act 1992; or where at least one of the combatants is competing for a monetary prize or other valuable reward. The bill prohibits minors from competing in professional combat sports contests. The Combat Sports Authority of New South Wales will set the rules for the age limits for participants in regulated amateur combat sports contests consistent with current amateur permit arrangements, which are that those under 14 are prevented from competing in amateur combat sports and those under 18 are prevented from competing in amateur mixed martial arts. Combatants will be required to be registered, as will promoters and industry participants. Promoters will also be required to obtain a permit to hold a combat sports contest.

As the Minister has stated, this bill will capture all combat sports and martial arts until they are assessed as not requiring legislation. This bill will extend the health and safety protections of registration with the Combat Sports Authority to amateur combatants, including a single medical record book system backed by a new online records system that provides up-to-date information on the health status of combatants. The bill will improve the integrity of the industry by applying a more stringent "fit and proper person" test to everyone registering with the authority, including security determinations through the NSW Police Force for promoters, managers and matchmakers. The bill also will clearly articulate promoter responsibilities and expand powers for the Combat Sports Authority to discipline registered members, including by issuing penalty notices, making prohibition orders against persons, and stopping contests if the Act or regulations are likely to be contravened or for health and safety reasons.

Combat sports proposed to be exempt by regulation include ju-jitsu and wrestling, which are at present covered by the existing Combat Sports Act. It is also proposed that the following sports, which are not covered by the existing Act, will be exempt—judo, karate, kung-fu and taekwondo. Combat sports that will be regulated

and are at present covered by the Combat Sports Act will be boxing, kick boxing, Muay Thai, and mixed martial arts, including cage fighting, ultimate fighting, combat 8 and kyoshi. The sports not covered by the existing Act but which will be regulated under this bill are sambo and pankration.

The integrity of combat sports is very important. There are so many good operators out there, and I can think of a few off the top of my head in the Camden electorate alone. I single out Toodokan, owned and run by Grand Master John Tooby. John has a wealth of experience and many accomplishments in combat sports—he truly sets the bar in the industry for a well-run, safe and highly reputable mixed martial arts dojo. The member for Wollondilly and Deputy Government Whip is a student of Toodokan. He is very good. The Minister herself met with John only two weeks ago and got an in-depth look into how a professional dojo is run. I commend the Minister for her commitment to connecting with those professionals affected by this bill at a grassroots level.

I thank the Minister for taking the time to come to my electorate. I also commend the Minister for her wonderful collaboration in relation to this bill, as expressed by the member for Canterbury. I commend the member for Canterbury for her bipartisan support for the bill. One of the things the Minister told me about her new role as Minister for Sport and Recreation was how happy she is with her exceptionally hardworking staff. Before the member for Keira asks, none of them are on my upcoming preselection committee. I commend the Minister's Chief of Staff, Chris Hall, and the other hardworking staff in the Minister's office: Marc Landrigan, Laura Masson, Amanda Ibbotson and Julian Crowley. They always work extremely hard, and have done so on this bill.

Returning to the bill, my four children attend Toodokan. They have grown in confidence and discipline, which I can attribute to the dojo. Matthew, my youngest, started last year as a four-year-old cub and my three other children Amelia, Tom and Sophie are brown belts and getting ready for their next grading as we speak. I congratulate Grand Master John Tooby, who was presented with his eighth dan at the Toodokan twentieth anniversary dinner on Saturday evening. The event was even more special for John because he was presented with the award by Grand Master Geoff Booth, who is a tenth degree as it is known in hapkido, and a long-time friend of John's. I commend the Minister for her outstanding work on this bill and share her belief that there is a place for combat sports within our community. However, as she stated, the emphasis must be on ensuring that they are run with the participants' safety, wellbeing and integrity at the forefront of the sport. I commend the bill to the House.

Mr GUY ZANGARI (Fairfield) [8.20 p.m.]: It is a delight to follow the member for Camden, who gave a wonderful portrayal of martial arts in New South Wales by coupling his second reading speech with a private member's statement as well as a community recognition statement. In the spirit of the contribution of the member for Camden, I acknowledge the efforts of Shehan Adrian Ionita from White Wolf Martial Arts in the Fairfield local government area. At his dojo he does a wonderful job of teaching children and adults the great virtues of martial arts.

The aim of the Combat Sports Bill 2013 is to regulate the conduct of combat sports and combat sport contests, constitute the Combat Sports Authority of New South Wales and subsequently repeal the Combat Sports Act 2008. These regulatory changes are made to help ensure the welfare of the combatants by setting stricter regulation and control within the industry. Because the industry was left somewhat untouched and some loopholes were left open for exploitation, amendments are needed to rectify the issue. The combat sports that are to be regulated under this bill include: boxing; kick boxing including Thai boxing, Laos boxing, Burmese boxing, shoot boxing; Muay Thai; mixed martial arts including cage fighting, ultimate fighting, combat 8 and kyoshi; and sambo and pankration. I googled pankration and learnt that it is a martial art dating back to ancient Greece and is a combination of boxing and wrestling. However, no biting or gouging of eyes is involved, which is good to know.

The bill will require registration of combatants, industry participants and promoters within the combat sport industry. Part 2, division 1 [9] will make it an offence for any combatant to engage in a combat sport contest without first being registered. Additionally, any individual under the age of 18 will not be eligible to register for a registration class applicable to any professional combat sport contest. Previously, amateur permits were being used to bypass the regulations set in place with little policing by the department. Amateur permits were being issued for entertainment purposes with small entry fees being charged because the previous version of the Act only required combatants who received a monetary prize to be covered by the professional combat sport contest definition.

This revision of the Act will continue as the previous legislation did and it will hand over the regulatory power of the amateur permits to the industry—the same industry that has abused the system in the past. That is a

real concern because even through the recent revisions the department still requires no information to be provided for amateur permits, nor the permits that did not meet the requirements of the Combat Sports Bill 2008. I fail to see how handing over regulatory power to the industry that abused the system for so long is a viable solution. It is not a system that helps to protect the health and welfare of the amateur combatants within New South Wales.

Although part 2, division 2, clause 18 requires the industry authority to keep medical record books for each registered combatant, there is no requirement for medical officers to be in attendance at any combat sport contest. That is concerning, given the nature of the sport. The only regulation being put in place is part 3, division 3, which stipulates that all combatants must undergo pre-contest and post-contest medical examinations to determine whether a combatant is fit or unfit to participate in the contest. Determining whether a combatant is fit for a bout is obviously an important step in looking after the health and welfare of combatants. However, it is a fundamental flaw that there is no regulatory necessity for medical staff to be on hand during the contest should any emergency medical support need to be administered.

Ms Linda Burney: There is now.

Mr GUY ZANGARI: The shadow Minister says that requirement now exists. That is great news and is a good improvement to the bill. Although the bill has improved the 2008 rendition of Act, more needs to be done to ensure that combatants are not exploited by the industry. As I said, we need to look after the health and welfare of all combatants. I do not oppose the bill.

Mr GREG APLIN (Albury) [8.26 p.m.]: I speak in debate on the Combat Sports Bill 2013. When driving past a pub or large club it is common to see combat sports events being promoted. Most are on screen, but occasionally there are live fights at the venue. The popularity of mixed martial arts and fight clubs appears to have surged and some of the fighters have become international celebrities. Can there be any doubt that these streams of revenue have attracted people with dishonest or even criminal intent? At various points this "adult entertainment" brushes closely with health activities for children and young people. In many communities there are popular and well-respected clubs centred around martial arts such as karate, taekwondo, judo and so on, and boxing for exercise. We must take steps to update precautions that were put in place in earlier times and under different conditions.

In this respect I am pleased to see that the health and safety protections that come with registration with the Combat Sports Authority will now extend to amateur combatants. Finally, we can avoid the problem of multiple sets of health documents and the possibility of critical information confusion. The Combat Sports Bill introduces a scheme whereby each combatant will have a single medical record book for his or her career. This book will be supported by a new online records system so that up-to-date information on the health status of combatants can be accessed.

I note that age restrictions play an important role in the bill. Clause 12 of the bill prohibits those aged under 18 from competing in professional combat sport contests. Age limits for those engaging in amateur combat contests will be set by the Combat Sports Authority. Those who are under 14 are prevented from competing in amateur combat sports, while a person has to be 18 years of age in order to compete in amateur mixed martial arts. Each combat sport must be scrutinised independently of the others. The Combat Sports Authority may set different age limits for a new sport, establishing age criteria according to advice on medical and child development.

The town of Corowa in my electorate has a growing not-for-profit activity group called Corowa Combat Sports. From its beginnings in a simple shed, it has now moved to a room at the Corowa Golf Club premises. Fees are low and the 30 members can choose up to four training nights per week. For the organisers it is all about helping the community to get fit and embark on a healthier lifestyle. There was also a sense that it would be good to provide new options for people seeking fitness and improved health in Corowa. The head trainer and president, Adam McKinna, has a background in freestyle martial arts, amateur boxing and Muay Thai. He saw in Corowa the need for a venue where people had the opportunity to try different activities and experience a number of skill sets. His mixed activities gym has grown as a result.

What is important is the approach that says this legislation will capture all combat sports and martial arts "until they are assessed as not requiring regulation". This will help to deal with the issue of branding when the name of the sport or activity changes to fit with a promotion or promoter and makes it hard to pin down as either captured or missed by the laws that are designed to control modern fight sports. The Combat Sports Bill

2013 walks the line between proper supervision and overbearing government control. For example, the bill makes clear that ordinary combat sports training or club and intra-club competitions are not part of the thrust of the new scheme. But once the public is admitted to the event upon payment of a fee, there are monetary prizes, or the fight is held on premises licensed under the Liquor Act or the Casino Control Act, then the event is subject to the substantial provisions of the bill. It is timely to craft a new set of laws for combat sports to keep undesirable characters out and to enhance the reputation of those providing a good and popular option for health and activity. Safety for our young people is paramount. I commend the bill to the House.

Mr JOHN FLOWERS (Rockdale) [8.30 p.m.]: I am pleased to support the Combat Sports Bill 2013. The reforms proposed by the bill were developed in response to a recent review of the Combat Sports Act 2008. The review included consultation with venue operators, health and safety bodies, government agencies and the NSW Police Force. The review also involved a discussion paper, a web-based survey, and workshops with promoters, managers and amateur sanctioning bodies. The review found that new combat sports should be regulated until it is demonstrated that they are sufficiently safe so as not to justify regulation; that current health and safety arrangements for combatants are inadequate; that an enhanced fit-and-proper-person assessment process is required; and that promoters should be accountable for the contests that they organise and hold. The changes proposed by the bill are intended to strengthen the regulation of combat sports to better promote the health and safety of those participating in those sports and the integrity of combat sports contests. In short, the bill aims to improve Combat Sports Authority governance arrangements.

The bill before the House provides for the Combat Sports Authority to be better positioned to regulate combat sports in New South Wales. The combat sports industry is fast-growing, changing, constantly presenting new challenges and has been identified as a potential area of illegal activity. The bill constitutes the Combat Sports Authority, determines its membership framework, and outlines its functions. The new powers that the authority is afforded under this bill are more extensive than under the previous Acts that regulated combat sports. Appointments to the authority will continue to be made by the Minister for Sport and Recreation. Mandatory appointments will be a chairperson, a medical practitioner, a person who has been a judge or an Australian lawyer with at least seven years experience, and a nominee of the Commissioner of Police. The new authority will have broad representation of professions, views and experience that will enable it to effectively supervise and regulate combat sports.

The authority will be able to suspend, cancel, or vary the conditions of a person's registration or issue a formal caution in relation to contraventions, or likely contraventions, of the law. Disciplinary action must be preceded by a show cause notice that allows the person to provide reasons and explanations in relation to the matter at hand. The authority must consider those in making its decisions. In addition, the bill will enable the authority to make prohibition orders against any person. In effect, this will allow the authority to prohibit a person from undertaking specific activities or being involved in the combat sports industry. This significant change extends the authority's ability to deal with integrity issues that occur outside the contest environment, including in combat sport gymnasiums and training grounds, and those environments that involve non-registered persons. The bill allows a permit to be revoked by the Combat Sports Authority or a high-ranking police officer in particular circumstances. It also provides the Combat Sports Authority, combat sports inspectors and the NSW Police Force with the power to direct a promoter not to hold a contest, a combatant not to compete and an industry participant not to participate.

The Combat Sports Authority will be responsible for implementing the framework through which amateur bodies are approved by the Minister. After amateur bodies are approved, the authority will be required to work with them to effectively regulate amateur contests. This bill provides the governance framework through which the Combat Sports Authority will undertake its functions. It provides for a wide range of professions, skills and experience to be included within the membership of the authority. It specifically provides for the appointment of persons with qualifications commensurate with fulfilling the objectives of the Act, which are to promote the health and safety of contestants, to promote the integrity of combat sports contests and to be members of the authority. The bill also gives the authority and the police the powers they need to take a proactive approach to addressing health, safety and security issues that arise in combat sports. I commend the bill.

Mr RAY WILLIAMS (Hawkesbury—Parliamentary Secretary) [8.35 p.m.]: My contribution to debate on the Combat Sports Bill 2013 will be brief. It will come as no surprise to many members of this House that I am the son of the late Allen Williams, who was a former heavyweight boxing champion of Australia and a heavyweight boxing champion of the South Pacific. Following my father's very successful 14-year career in the boxing ring and especially during the last four years of his career between 1956 to 1960 when he held the champion belts for not only this country but also the South Pacific, he turned his life towards training younger

people, as have many Australian boxers. He ran many successful gymnasiums in Riverstone and Windsor. Like other boxing notables such as a former light heavyweight champion of Australia, Bruce Farthing, a former featherweight champion of Australia, Trevor King, and a former welterweight champion of this country, George Bracken, he turned to training young people in the discipline of boxing.

I participate in this debate to discuss an anomaly in combat sports legislation that has not been rectified. The situation was altered in 1998 by the Labor Government, when regulations governing the age limit of competing boxers were changed from 10 to 14 years. That created great controversy across boxing jurisdictions of New South Wales. Notables such as Arthur Tunstall and many others, especially the people to whom I have referred, argued long and hard that a great inconsistency exists because that age limit applies only to people engaged in boxing or martial arts competitions in New South Wales. Participants who travel interstate to compete in martial arts and boxing competitions are able to compete at the age of 10.

I raise this issue not because I want to see young people knocked around—I certainly do not want to see that at all—but on behalf of many young boxers who have commenced their careers at a very young age. We allow young people to compete in soccer, rugby league and rugby union competitions from a very young age. People are able to participate in rugby league, which is a tough contact sport, from the age of six or seven years. It may not be listed as a combat sport, but it certainly is a contact sport. Why would people believe that a person could not be injured on the field in a game of rugby league or rugby union to the same extent as they could be injured in a boxing competition at the age of 10 years? Unfortunately that anomaly has not been corrected in the bill and it would be remiss of me, with my background and knowing the people I have mentioned in debate tonight, not to raise this as an anomaly that should be addressed. The legislation should allow children aged 10 years and over to compete in martial arts competitions.

ACTING-SPEAKER (Mr Gareth Ward): Order! Opposition members will come to order or they will be removed from the Chamber. I call the member for Canterbury to order for the second time. I call the member for Miranda to order for the first time. I call the member for Miranda to order for the second time. He will not flout my ruling.

Mr RAY WILLIAMS: Mr Acting-Speaker, I acknowledge the interjections by the independent member for Miranda and ask you to show some leniency towards him because he agreed with what I was saying. I appreciate the support of the independent member for Miranda. We must have consistency in relation to the regulations applying to young people. We have all heard stories of young people who took the wrong path in life but who found a degree of discipline in martial arts, particularly boxing. There are wonderful stories of young people who have led a worthwhile life and contributed to society because they were offered the opportunity to practice the skills of boxing in a gymnasium.

Steve Cansdell, the former member for Clarence, and my good friend and former colleague, had a challenging start to life but, as a young person, he wandered into Ernie McQuillan's gym and went on to become the light heavyweight champion of Australia. Across the country there are many stories like Steve's, of young people who had the opportunity to walk into a gym and learn the art of boxing, which is a great discipline. We are denying such young people the opportunity to take part in competition because in 1998 our predecessors raised the age limit to 14 years. It is an anomaly that I hope will be addressed

Mr BARRY COLLIER (Miranda) [8.41 p.m.]: I agree with the member for Hawkesbury. For many years I was the patron of the Sutherland Police Citizens Youth Club, where boxing is an important skill. I attend the Box Tag gym at Sutherland—even at my age, I am one of the younger members—where they are making boxing safe. Combatants are required to wear proper head gear and gloves and are not permitted to punch heavily or around the head, and scores are recorded electronically. I take part in that, as do children from seven years of age, and seniors up to about 69 years of age. It is a safe way to box. I agree with the member for Hawkesbury that it is an anomaly that young boxers must travel outside the State to compete in events that will develop their skills, and it should be addressed.

Ms GABRIELLE UPTON (Vaucluse—Minister for Sport and Recreation) [8.43 p.m.], in reply: I thank members for their contributions to debate on the Combat Sports Bill 2013. I thank the member for Canterbury for the cooperative way in which she has worked with me and my office to achieve a better understanding of the policy intention behind this bill and the way in which it has been expressed. I also acknowledge the contributions of the member for Cabramatta, the member for Fairfield and the new member for Miranda. I thank members on this side of the House for their contributions—those members representing the electorates of Monaro, Camden, Rockdale, Hawkesbury and Albury.

I note that the bill is unopposed. I have had discussions with the member for Canterbury and it is proposed that two amendments will be moved. One that I have requested clarifies the definition of "combat sports contest" in proposed section 4. I emphasise that the amendment simply clarifies the definition. The second amendment was raised in a cooperative fashion by the member for Canterbury and is designed to clarify that medical supervision is required both at and after contests. I thank her for that contribution to the bill.

The member for Canterbury flagged that there may be further consideration in the other place of the role of amateur sanctioning bodies. I will address that briefly before returning to the policy behind the bill and the way it is reflected. The point of discussion relates to the role of amateur sanctioning bodies, which is addressed in proposed section 8. I reassure the member for Canterbury—and we will continue in our discussions on this—that the legislation recognises the important roles undertaken by amateur combat sports bodies and formalises the approval of those organisations by the Combat Sports Authority and the Minister. Proposed section 8 states that amateur combat sports bodies will continue to be critical in the delivery of amateur combat sports contests in our State and will contribute to fulfilling the regulatory requirements outlined in the legislation where they have been approved as having the capacity to do so.

Amateur organisations will be advised of the requirements to be met in order to be an approved amateur body. The approval process will be designed to provide a quality assurance framework and to encourage best practice in approved organisations. The bill provides the underpinnings of an aspiration to better practice where there is a view that those bodies embrace and demonstrate those aspirations. Judges, referees matchmakers and timekeepers who are registered with an approved amateur body will be exempt from registering as an industry participant with the Combat Sports Authority provided they work only at contests sanctioned by that organisation.

The main change in this bill is that amateur bodies will no longer issue medical record books to their combatants; that will be done centrally by the Combat Sports Authority. I will continue in my discussions with the member for Canterbury and anybody else who would like to flesh out that concern. I assure the member that the intention behind proposed section 8 is in no way to lower any current standards required in amateur contests. It simply recognises that there are bodies that could be specifically permitted, as they are now, to conduct some of those functions.

I return to the substantive debate. I acknowledge the contribution of the member for Hawkesbury and his desire, which we have discussed, for the age of boxing to be lowered in New South Wales in order to be consistent with some other States. I respect that his view and the fact that he has a long family heritage of achievement within the boxing community gives him insights that others in the House may not have. However, that issue was not raised during the consultations and has not been addressed in the bill. As always, I am happy to continue discussions and to consider the matter further. I know the issue is of great concern to the member for Hawkesbury, and it was raised also by the new member for Miranda.

This bill repeals and replaces the Combat Sports Act 2008. It proposes changes that will ensure more robust medical requirements for amateur combatants, broader background checks to better promote integrity within combat sports and greater accountability of promoters. The bill also broadens the definition of "combat sports". It recognises the role of approved amateur bodies and provides for a single medical record book system to be implemented in New South Wales. The bill also strengthens the Combat Sports Authority by requiring an experienced lawyer or judge and a nominee of the Commissioner of Police to be appointed, in addition to the current requirement for the appointment of a medical practitioner and chairperson. The changed membership ensures that the Combat Sports Authority has the full range of expertise needed to exercise its new powers to better supervise and regulate combat sports in New South Wales.

In summary, these reforms aim to improve the health and safety of combatants, particularly those participating at amateur level, who are brought under the auspices of this legislation in a contest as defined by the Act. The changes promote integrity within combat sports by ensuring all involved meet the fit and proper person requirements. This bill provides protection for our local community and participants in combat sports. It provides also for the Combat Sports Authority and the police to be proactive in their approach to regulating combat sports contests so that health, safety and security risks can be addressed as they arise. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Consideration in detail requested by Ms Gabrielle Upton.

Consideration in Detail

ACTING-SPEAKER (Mr Gareth Ward): Order! By leave, I shall propose the bill in groups of clauses and schedules.

Clauses 1 to 3 agreed to.

Ms GABRIELLE UPTON (Vaucluse—Minister for Sport and Recreation) [8.52 p.m.], by leave: I move Government amendments Nos 1 and 2 on sheet C2013-156 in globo:

(1) Page 2, clause 4 (1), line 38. Omit "sparring, if the sparring is not for public entertainment, or".

(2) Page 20, clause 53, line 38. Omit "or before". Insert instead "and after".

The Government intends to move two amendments to the bill following consultation with the Opposition. Again I highlight the cooperative way in which we arrived at these amendments and are happy to support. Government amendment No. 1 responds to the concerns that the definition of "combat sports contest" at clause 4 (1) is unnecessarily unclear. Currently, the definition refers to sparring for public entertainment. While the current Act refers to sparring for public entertainment, the bill no longer refers to public entertainment elsewhere. Under the circumstances set out at paragraphs (a) to (d) of the definition of "combat sports contest" sparring would be a display or exhibition of combat sport and would fall within the definition of "combat sports contest" without the need to separately refer to sparring or public entertainment. I believe that deleting the separate reference to "sparring for public entertainment" removes an unnecessary and potentially confusing reference in the bill.

Government amendment No. 2 clarifies clause 53 of the bill. Attending medical practitioners have functions at a combat sports contest and must also conduct post-contest medical examinations. Pre-contest medical examinations must be conducted on the same day as the contest, but may be conducted by a doctor other than the attending medical practitioner. This amendment provides that promoters must ensure that an attending medical practitioner is present at both the contest and the post-contest medical examination. I thank the member for Canterbury for bringing that to my attention. The bill now has clarity.

Question—That Government amendments Nos 1 and 2 [C2013-156] be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 and 2 [C2013-156] agreed to.

Clause 4 as amended agreed to.

Clauses 5 to 52 agreed to.

Clause 53 as amended agreed to.

Clauses 54 to 110 agreed to.

Schedules 1 to 3 agreed to.

Consideration in detail concluded.

Third Reading

Motion by Ms Gabrielle Upton agreed to:

That this bill be now read a third time.

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

CEMETERIES AND CREMATORIA BILL 2013

Second Reading

Debate resumed from 24 October 2013.

Mr RICHARD AMERY (Mount Druitt) [8.54 p.m.]: I lead for the Opposition in debate on the Cemeteries and Crematoria Bill 2013. While the Opposition supports some of the bill's concepts, it will vote

against it for reasons I shall outline shortly. I ask Government members, particularly backbench members who may not have had a full briefing on the bill, to look again at it. They will realise that their constituencies may be concerned when some aspects of this bill become law without much notice. The Opposition supports most of the bill but will vote against it because it introduces the concept of limited tenure of gravesites, which the Labor Party has consistently opposed for at least 25 years. We appreciate the serious challenge of gravesite availability; it has been discussed for some time and has resulted in many reports and actions by all governments, including the former Labor Government. Going back even further, in the late 1980s the Cemeteries and Crematoria Association submitted a report to the then Greiner Government recommending limited tenure on gravesites. After the Government sat on the report for about a year I, as the then shadow Minister for Natural Resources, issued a press release stating that the Greiner Government was considering the proposal.

Of course, this was denied vehemently and sometime later the idea was dropped. I note that the member for Wagga Wagga is in the Chamber; I recall doing a radio interview when the local member of Parliament was Joe Schipp. Of course, the Government criticised the Labor Opposition for daring to attack a decision not yet made. That was a fair point, but I am pleased that the then Government rejected the idea. On the election of the Labor Government in 1995, the cemeteries industry again approached the Government on the same issue, but a number of other issues arose resulting from the pressure of gravesite unavailability. I acknowledge that the present Government has worked on this issue for some time, but this bill does not solve the problem.

One issue was that many unused gravesites—I emphasise "unused gravesites"—had remained that way for more than 50 years because the owners had not used them for a number of reasons; for example, families lost records and when a loved one passed away they were either buried or cremated elsewhere because the existing gravesite was unknown, and some people moved interstate. As the Minister at the time, I introduced the Cemeteries Legislation Amendment Unused Rights Bill 2001. That bill allowed cemeteries to go through a process of finding the owners of unused prepaid gravesites. The full details of that bill are recorded in the *Hansard* of this House on 24 October 2001.

ACTING-SPEAKER (Mr Gareth Ward): Order! There is too much audible conversation in the Chamber. The member for Mount Druitt will be heard in silence.

Mr RICHARD AMERY: That move was not insignificant as it was reported that some 30,000 unused gravesites in Sydney Crown cemeteries alone were sold more than 60 years previously. Of course, as time went by, more unused gravesites came online. I have read the Minister's second reading speech and, as I said earlier, I am sure we can agree on much of it. We differ on that part relating to reusing gravesites after a period. I suspect, as do the Opposition and many community members, that Government members did not notice that when the bill was considered by the party room.

I return to the overview of the bill. The most contentious issue in the bill is the fact that a gravesite that is already being used could be re-used after removing the body by a number of processes—which I will come to in a moment. Having pointed out the most contentious part of the bill, I turn to paragraphs (a) through to (f) of the overview of the bill. I challenge anyone to find where it says in the explanatory note that existing gravesites will be re-used. The first object of the bill is:

> (a) to recognise the rights of all individuals to a dignified interment and treatment of their remains with dignity and respect,

I do not think anyone disagrees with that; that has been the goal of the funeral industry for time immemorial. The second object is:

> (b) to ensure that the interment practices and beliefs of all religious and cultural groups are respected so that none is disadvantaged and adequate and proper provision is made for all,

That is another admirable comment. There is no reference to the fact that an existing gravesite will be re-used. The buzzword appears in the next object, which is:

> (c) To ensure that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services.

That is the point of this bill. There is no mention of the fact that existing gravesites will be re-used; there is only a vague and fuzzy concept in the overview of the bill. It is no wonder that members of the House are unaware of the hidden components in this bill, which will have a devastating effect not only on how the industry operates in the future but also on the decisions made by families about how they will bury or cremate their loved ones.

I have read the bill and the second reading speech. The establishment in the bill of a new statutory body, namely Cemeteries and Crematoria NSW, is a positive move. The bill sets out the details of how this organisation will be managed and the classifications of people who will be appointed by the Minister, their roles and who has and does not have voting rights. That is generally a good move and I am sure the industry supports it. The Minister made an interesting comment in her speech that has prompted me to question how cemeteries will manage native vegetation in the future. In her second reading speech the Minister stated:

> The bill re-enacts many provisions from the Crown lands legislation framework and makes clear that cemeteries and crematoria on Crown land will continue to be managed in accordance with the principles of Crown land management.

That is fair enough. I encountered an issue with Rookwood Cemetery that related to this statement. A number of trusts reported that some unused parts of the cemetery could not be used as they could not clear the land because some native species had been identified. In other words, threatened species legislation was enacted. This situation affected some trusts more than others. The reason was that some trusts kept their land tidy and mowed regularly, which stopped the regeneration of plant life, while others who left the land untouched were confronted with new threatened species legislation that prevented the trust from using the land for its original purpose—which was to bury the dead. I ask the Minister to respond to that point and to advise whether there are any legislative impediments to the trusts, particularly at Rookwood, using the land for the purpose of burials and whether they are prevented from using that land because of either various threatened species or Crown land management legislation.

Unless the Government is prepared to remove the provisions that allow limited tenure of gravesites, the Opposition will oppose the bill in both Houses of Parliament. I ask the Government not to proceed with this aspect of the bill. It is unnecessary. It will cause stress to many families and it is unfair. The Government will be condemned for caving in to the industry on what I call an old chestnut that it has been pursuing for many, many years—if not many, many decades. I call it a chestnut because it has been a try-on by the funeral industry for years. It has been raised with the Greiner Government, the Carr Government and others. The Coalition and Labor governments have rejected the idea in the past—and both sides of the House made the right decision. This time the industry and those working in it have been smarter in how they presented the proposal. The Government has fallen for it, and I am disappointed that Government members have let this matter come before the House.

The Minister's second reading speech and the legislation states that limited tenure will be voluntary. In other words, people can choose whether to buy a permanent gravesite or have one for a limited tenure—up to 25 years—before it is renewable. A provision has been applied so that existing graves in the various cemeteries around New South Wales will not be affected. This clever move has conned the Government. The funeral industry has come to government time and again with this proposal. It realised it would get the same result so it has returned with a cleverer approach—to make it voluntary. It sounds good and it does not affect existing graves. This is rhetoric. We have all sat in the office of funeral companies talking about funeral arrangements for our loved ones. I am sure all members have had that experience. The cost of a funeral is a big issue for many of the struggling families that members represent. It does not matter whether it is a perpetual gravesite or a cremation. Sometimes the decision is based on the family's choice or the deceased sets out their wishes in a will. How many options will they have under this new arrangement? I can envisage a time when the options of permanent and limited gravesites will be presented to people with a wide difference in cost. Families on limited incomes will look to the cost factor more than families whose means are more significant. In other words, limited tenure will be taken up by those on limited incomes.

Once the concept of limited tenure is in place, future options will close. This inappropriate law is being introduced to address the issue of gravesite availability. It is a question that has challenged all governments for many years, especially in the metropolitan areas of Sydney, the Hunter and the Illawarra, but less so in the latter regions. It is not an issue for country towns. I challenge Coalition members to say that country towns could not address the issue of availability of graveyard sites. Why country people would be put in the position of having to renew contracts and pay extra fees after 25 years to keep a family member in their grave is beyond all reason. Anyone who has been to as many country towns and cemeteries as I have will know that the restriction of land is not an issue for country towns as it is for people living in Sydney. The land restrictions and gravesite availability is not a problem for country councils that own the grave sites.

I turn now to Sydney, where urban sprawl and increasing population are putting pressure on land space for burials. When Rookwood was planned in the 1860s, it was designed to cater for the burial demands of the city for decades, if not centuries, ahead. The fact that people are still being buried at Rookwood Cemetery is testament to the success of the original planners. In the 1860s one would not have imagined the increase in

population size of not only Sydney but also the world; nor would one have envisaged the number of people who have settled in Sydney from such a wide variety of countries and cultures. In 1860 mainly people from the British Isles came to Australia. Despite this, Rockwood Cemetery has been a success. However, we are now in a position where the availability of land will be exhausted in the future. I have noticed over the past 20 or 30 years that estimates by the different trusts have varied from time to time. The responsibility for burying our dead in the future should not be left to the families of those who are left behind—the current generation.

Establishing a cemetery is always a controversial issue. I am sure that members with a local government background will have experienced the problem when various cultures have tried to establish a cemetery in their local areas. Pinegrove Memorial Park and Crematorium is a very successful part of the Western Sydney community. People have built houses and moved into existing homes located at the gates and fences surrounding this facility—in other words, they have voted with their feet. Pinegrove was not built in the middle of an existing suburb but when it was proposed in the late 1960s locals protested, particularly those who lived around Eastern Creek. Now it is accepted. Indeed, most local families have had a family member buried or cremated there. The first solution to Sydney's problem lies in planning. I note that a couple of members present in the Chamber are far more learned about planning laws than I, but we all know that parts of Sydney are being planned and that certain types of land have been set aside for specific developments.

For example, land is now being opened for development in south-west and north-west Sydney. Certain parts of that land should be set aside for cemeteries in the same way as land is being set aside for employment, factories and warehouses, schools, houses of varying designs, roads, hospitals, shopping centres and the like. Planning should include cemeteries or burial grounds. In that way people can make an informed choice as to whether they are prepared to live next to or near a cemetery. In practice, people continue to buy homes adjacent to existing cemeteries, and I do not believe there will ever be any serious objections to that practice. As I have said, the Pinegrove experience shows that concerns in this regard are short lived. Perhaps families should be allowed to bury more than one person in one grave. I qualify that statement by saying that some cultures may hold different views. The bill addresses religious and cultural differences and beliefs about funerals.

I will share with members my visit to my father's homeland—I often talk of its football club—in Burnley, England. A number of family members have been buried in the family grave at Burnley in Lancashire over a 100-year period. I have spoken to people in the cemetery industry and they tell me they are now digging graves that will take at least two bodies. This will give people the option to bury a second family member in the same grave in the future. But many sites sold before then would allow only one person to be buried. Members should take the time to consider overseas practices that allow for more than one body to be placed in a gravesite. Such a practice is not allowed in this country for commercial reasons, and it would have a dramatic effect on our funeral industry if it were adopted. Having two bodies in one grave is current practice overseas so why not have more bodies? Surely it is not an insurmountable problem.

In summary, I will put on the public record what I believe will happen once the concept of renewable tenure becomes commonplace. I do so having read the provisions in the bill and the Minister's second reading speech. First, when people discuss with a funeral company the type of funeral service they want for a family member who has passed away they will be given the option—what a clever little word—of a permanent or renewable burial site or location for the ashes under a rose bush or the like. That option will be renewable. Secondly, the cost difference between the permanent and renewable sites will be such that those families struggling with funeral costs will opt for the renewable option for the obvious reason that it will be considerably less—some people now opt for cremations over burials because of the cost.

Thirdly, at the end of the renewable period the last known owner of the site—in order words, the person who organised the funeral—will be contacted and told that if they want their family member to remain in the ground or rose garden et cetera, they will have to pay another fee. Nothing in the legislation suggests what that fee will be. The process will be repeated every five years. Members should think about that. The family has made a decision to bury someone on limited tenure and after 25 years they will be contacted by a funeral company and given the option of either paying up or having the remains removed and, as the Minister mentioned, put in a glorified mass grave. That gravesite would then be re-used. Under the bill I introduced in 2001 we re-used tens of thousands of gravesites that had been left empty because their owners could not be located.

If the owner of a site is not located then the processes outlined in this bill will be followed. For example, letters will go to the last known address, advertisements will be put in the newspaper, a reasonable time will elapse and so on, and then the remains will be removed from the gravesite and put into an ossuary—

which is a glorified mass grave. The grave will then be resold to someone else with an option of either limited or permanent tenure. Do we really need to do that in Australia? Is that the only way of resolving the availability of gravesites in Sydney? It is a pretty poor show if all the planners think that is the only way out. It is contrary to what Labor and Coalition governments have done in the past. Somehow this Minister has put something through the party room that I do not believe many members know about. As I pointed out in my hypothetical example, original gravesites will be resold.

The bill contains many fine words. It glosses over issues; it is about options. But members should put themselves in the position of people who do not have money for burials. I am sure that all members have contributed to the cost of family funerals because this was an issue. Funeral costs will force people to take the limited tenure option and every 25 years the family will be confronted with extra costs and decisions about removing remains from graves. I find this offensive and ghoulish. I hope the Government will reconsider its approach. Labor does not have the numbers to defeat the bill in this place but I hope that the crossbench in the Legislative Council—the Shooters and Fishers Party, The Greens and the Christian Democratic Party—will vote with Labor in opposing the bill.

We do not need this bill. There are better ways of doing this in Sydney—and for country towns to be stuck with the same legislation as Sydney is the most absurd situation I have ever seen. I oppose the bill. I accept that there are some components of the bill that should be supported. But, because they are so intertwined with the limited tenure aspect, I believe the whole bill should be withdrawn, re-drafted and debated again at some time in the future. I reject the bill and hope that it is defeated.

Mr VICTOR DOMINELLO (Ryde—Minister for Citizenship and Communities, and Minister for Aboriginal Affairs) [9.20 p.m.]: I support the Cemeteries and Crematoria Bill 2013. The New South Wales Government is committed to ensuring that all religious and cultural groups can honour and farewell their loved ones in accordance with their traditions and customary practices. The first two objects of the bill make this fact abundantly clear. I recognise and draw attention to the work that has been done in preparing the bill to ensure the protection of religious and cultural heritage and respect for individual choice. The piecemeal approach to cemetery policy in this State over the past two decades has put at risk our ability to provide equitable, affordable and sustainable access to the full range of interment options, regardless of faith or creed.

Parliament heard earlier this year of an occasion on which the Minister for Primary Industries had to intervene directly to avoid the exhaustion of burial space for the Muslim and Jewish communities in Western Sydney. The opening of the 3.9 hectares lot 10 at Rookwood Cemetery resulted in the creation of 6,700 new interment sites for these communities. I was there for the opening and saw firsthand the joy of those communities. They have been working hard over the past 10 years to secure long-term options for their communities in this area. It took the leadership of the Premier and the Minister for Primary Industries over the past two years to make this legislation a reality. New South Wales needs a long-term plan to ensure that the interment needs of the public are met now and into the future. This includes ensuring that all individuals have the option of a traditional burial in a cemetery close to their community.

This bill establishes the essential building blocks for the development of a collaborative and sustainable approach for the interment industry that will secure the rights and needs of all religious and cultural groups. A new agency is being created to provide strategic oversight of all cemeteries and crematoria in New South Wales. The agency will develop and implement policies to ensure that operators are delivering interment services in accordance with best practice. In undertaking this work, the new agency has a statutory responsibility to ensure that no faith is disadvantaged and that equitable access to cemeteries and crematoria is provided to all groups in a way that respects and upholds their beliefs and customs.

The bill also provides for the appointment of an independent board to set the priorities for the new agency. In driving the agenda for cemetery and crematorium reform, the board will have regard to the issues and concerns facing the industry and the community, as articulated by those groups. The board will maintain close working relationships with all key stakeholders, including representatives of the major faiths and community groups. The bill paves the way for cemetery operators to make better use of existing cemetery space, in particular by facilitating more sustainable burial practices, such as cemetery renewal and renewable interment rights. The principles of choice and non-retrospectivity will underpin all developments in this area to ensure the protection of religious and cultural heritage.

This bill will have no impact on existing interment rights and all existing interment options will continue to be available to everyone in a way that suits their individual and religious needs. To this end, some

important amendments were made to the bill during the stakeholder consultation phase, in particular in response to concerns raised by the Community Relations Commission and the Jewish Board of Deputies. These include: first, providing that renewable interment rights are not to be allowed in cemetery portions where perpetual burial is required on religious or cultural grounds; secondly, providing that cemetery operators must permit interments in accordance with religious and cultural practices; and, thirdly, providing that where remains are disturbed in accordance with the Act—for example, to allow for additional burials in a family grave or pursuant to an application for exhumation—remains must be dealt with in accordance with religious and cultural practices.

The New South Wales Government shares the significant concern expressed by the community and religious and cultural groups in relation to acts of desecration and harassment in cemeteries. The Government is committed to minimising these acts and penalising perpetrators. To that end, this bill includes an amendment to the Summary Offences Act 1988 that aligns desecration offences in cemeteries with those relating to war memorials and other protected places. Now, under section 8 of the Summary Offences Act 1988, a person who wilfully damages or defaces an interment site, including a memorial, will be guilty of a criminal offence. In addition, any person who commits a nuisance or any offensive or indecent act in, on, or in connection with an interment site will be equally guilty of a criminal offence. This will help to ensure that acts of desecration committed with respect to a particular interment site and acts of desecration within cemeteries generally are criminal offences punishable under the Summary Offences Act.

The bill also establishes an additional offence for disturbing or interrupting any service, procession or cortege in a cemetery, or interring remains without lawful authority. This bill is the next step in the State's transition to a more modern and sustainable approach to interment services. All religious and cultural groups have been closely consulted throughout the reform process, and the interests and concerns of each have been addressed in a collaborative and systematic manner. In particular, the Government received advice from the New South Wales Jewish Board of Deputies, the New South Wales Muslim community, the Catholic Church and the Sydney Anglican Diocese—as well as receiving contributions from the private sector, the Funeral Directors Association, Local Government NSW and Crown Cemetery Trusts.

I extend our thanks to all those who contributed to these reforms. I also acknowledge the tireless work of Mr David Harley, AM, who was largely responsible for engaging stakeholders with an interest in cemetery reform from across the State. The New South Wales Government is committed to maintaining the close working relationship it has developed with faith leaders and community groups as it moves to the next phase of these reforms and begin implementation of this important piece of legislation. I commend the bill to the House.

Mr BARRY COLLIER (Miranda) [9.26 p.m.]: I speak on the Cemeteries and Crematoria Bill 2013 with a measure of recent experience in this very important area of government administration. For the 12 months immediately preceding my nomination as a candidate in the by-election for the electorate of Miranda, I had the honour of serving as a member of the Rookwood General Cemetery Reserve Trust Board on a voluntary basis. It would be wrong of me, in speaking on this bill, not to acknowledge and thank the Government and the present Minister for my appointment as a trustee and for allowing me, as a private citizen, to play a small part in the process of cemetery reform.

Rookwood is the largest cemetery in the Southern Hemisphere and, having commenced burials in 1868, is now the second-oldest Victorian cemetery in the world. The ongoing process of cemetery reform required the amalgamation of all existing non-Catholic trusts into one general trust and this presented particular challenges to the trust board on a number of levels. I take this opportunity to acknowledge and thank all my fellow trust board members for their hard work and continuing commitment, under the outstanding leadership of the chairman, Mr Robert Wilson. The board members with whom I served are: Ms Patricia Lloyd, Mr Nick Pappas, Mr Ahmad Kamaledine, Mr Richard Seidman and Ms Robyn Hawes. I thank Mr Wilson for his guidance and the experience he brought to the Finance, Corporate Governance and Audit Committee of the trust—which I had the privilege of chairing.

While the Rookwood General Cemetery Reserve Trust board had no direct input in the formulation of this bill before the House, I have no doubt that it led the way in developing the model for other cemetery trusts to follow on everything from management policies and procedures, committee structures and charters, to codes of practice, strategic planning, finance and corporate governance. I know that Mr David Harley, AM, who assisted the Minister in the formulation of this bill, would be among the first to acknowledge the role of the Rookwood General Cemetery Reserve Trust Board in the process of cemetery reform. I support the objects of the bill before the House, knowing full well that, even while these were perhaps not formally recognised in legislation, the board on which I served always acted with the objectives as stated on the front of the bill very much in mind.

Object (b) of the bill, for example—respecting the interment rights, practices and beliefs of all religious and cultural groups—was no more evident than in the recent opening of Lot 10 at Rookwood Cemetery, which provided relief for the Jewish and Muslim communities requiring perpetual burial. The future shortage of burial space and the management of the cemetery in perpetuity are critical issues for the Rookwood General Cemetery Reserve Trust and no doubt will become so for other cemetery trusts across New South Wales as they near capacity. In that respect, I note the inclusion of clause 14 that gives the proposed cemetery agency power, with the consent of the Minister, to acquire land for cemetery purposes or transfer land to a Crown cemetery trust.

The establishment of a cemetery agency responsible for the strategic oversight and regulation of the New South Wales interment industry is a welcome initiative and the functions of the proposed cemetery agency are outlined in the bill. I note the bill also outlines the duties and liabilities of agency board members as well as provisions governing the conduct of Crown trust board members. I welcome the application of the business judgement rule, which is consistent with the Corporations Law, and which will, I hope, attract some first-class professionals to serve on the various cemetery boards.

As has been indicated, the Opposition opposes the bill for the reasons outlined by the member for Mount Druitt. I also indicate that I have a problem with the way in which the bill deals with the bequeathing of interment rights under clauses 49 and 50 of the bill. I encountered the problem last year as the executor of a deceased estate. The problem arises where a testator dies leaving a will but does not specifically bequeath the interment right under clause 49 because, for example, they had had it for so long that they had forgotten about it or they had suffered from dementia. Another reason could be that when the will was prepared there was an oversight on the part of the solicitor or the testator. The problem is that the person who dies otherwise testate dies intestate so far as interment rights are concerned. This partial intestacy presents problems for the executor, particularly where there is no surviving spouse.

In my case I was advised by another trust that I had to contact each of the six beneficiaries, none of whom were blood relations of the deceased and two of whom lived overseas, to gain approval to give the right to the one beneficiary who seemingly wanted the grave. I suggest to the Minister that this problem of partial intestacy could be overcome by vesting the burial right in the executor as personal property in cases where that right is not specifically mentioned in a will rather than treat it as property to be dealt with under the rules of intestacy. I note that schedule 6 to the bill amends section 8 of the Summary Offences Act to include interment sites as protected places and imposes fines of up to $4,000 with the proviso that a court may direct the offender to perform community service work. Many in the community believe that the desecration of interment sites and monuments should attract more serious penalties, including custodial sentences. The Minister might like to consider that in any future amendment. As I said, the Opposition opposes the bill for the reasons stated by the member for Mount Druitt.

Mr JOHN SIDOTI (Drummoyne) [9.32 p.m.]: I support the Cemeteries and Crematoria Bill 2013. The Cemeteries Agency is being established to develop comprehensive industry-wide strategies to address the current shortage of burial space. In addition to land acquisition, this must include burial practices that extend the life of existing cemeteries. The key initiative in this regard is the implementation of a renewable interment rights scheme. A number of jurisdictions around Australia and overseas have long realised the benefits of renewable rights for ensuring that cemeteries can continue to service local communities for generation after generation.

For example, South Australia has offered renewable interment rights since the 1930s and Western Australia introduced them in the 1980s. In New South Wales renewable interment rights are not currently allowed in Crown cemeteries. Two non-Crown operators offer renewable rights, but there are no rules or guidelines on how they should operate. The New South Wales Government's policy intention is to allow existing practices to continue while introducing appropriate safeguards to protect the rights of individuals to a dignified interment and respectful treatment of their remains. We are also establishing appropriate measures to ensure that cemetery operators act in accordance with these rules. Penalties will apply where they do not.

The bill enables cemetery operators to offer renewable interment rights on a consistent basis across all three cemetery sectors in New South Wales. This will be done on the basis of choice and non-retrospectivity. Perpetual interment will continue to be available to everyone and there will be no impact on existing perpetual interment rights. Any existing rights that are not for a specified fixed period will be deemed to be perpetual rights. However, the Government will encourage cemetery operators to make renewable interment rights available for new graves so that all communities have a clear choice between renewable and perpetual interment.

The bill provides that renewable interment rights may be granted for all types of remains and all types of interment site. For bodily remains—that is, remains that have not been cremated—rights must be granted for an initial term of 25 years. This will apply irrespective of the type of interment site; it may be a below-ground burial or interment in a vault, mausoleum or other such structure. In the case of cremated remains, many people choose to take the ashes home from the place of cremation and retain them or scatter them in accordance with their wishes or those of the deceased. If ashes are interred in a cemetery it is usually by placement in a niche wall at considerably less cost than for interment of bodily remains in a grave. The interment of cremated remains does not contribute to the shortage of cemetery space in the same way that traditional burials do so there is no policy incentive to limit the initial term for cremated remains to 25 years.

Furthermore, at Waverley Cemetery, which is one of two New South Wales cemeteries that now offer renewable rights, customers often choose to purchase a long initial term of 50, 75 or even 99 years from the outset. The Government sees no policy reason why this practice should not continue. Accordingly, the initial period for the interment of cremated remains can be any period up to the 99-year maximum. All renewable interment rights may be renewed for additional periods of at least five years up to the maximum total period of 99 years. The five-year minimum is important to ensure that cemetery operators are not unduly burdened by the administration associated with renewals. More importantly, the 99-year maximum for all renewable interment rights goes to the heart of these reforms by ensuring that the community can continue to make the best sustainable use of cemetery space for generations to come.

When a renewable right expires or within a six-month period of an interment a cemetery operator must renew the right upon application by the right holder and payment of the applicable fee. These two rights of renewal ensure that right holders can extend their right up to the 99-year maximum if they wish to. The manner in which the renewal fee will be calculated must be disclosed by the cemetery operator before a right is granted and each time it is renewed. This means that right holders will always know what will happen at each critical point in the term of their right.

In addition, at any time after the first interment the right holder and the cemetery operator may agree to renew the right for any period up to the 99-year maximum. This gives right holders the flexibility to plan ahead and avoid having to make decisions about renewals at times of loss, grief and distress. If the right is not renewed the cemetery operator may re-use the related interment site by offering a new right. This can only be done after a two-year grace period has expired, reasonable efforts have been made to contact persons listed in the register and the intention to re-use the site has been published. The operator must also seek the advice of the cemetery's heritage advisory committee.

Importantly, the site cannot be re-used until all bodily remains interred at the site have been interred for a minimum of 10 years, even if the renewable interment right has already expired. Any operator found to have contravened this rule will be liable for the bill's maximum civil penalty. Additionally, an interment site cannot be re-used unless the cemetery operator believes remains interred in the site are sufficiently decomposed. Before the interment site is re-used the cemetery operator must ensure that any bodily remains are placed in an ossuary box and either reinterred or placed in an ossuary house. Cremated remains must be returned to the right holder or scattered in the cemetery. Monuments and memorials may be reclaimed, and advice must be sought from a committee with specialist heritage expertise on dealing with any unclaimed monuments or memorials. This bill's provisions are intended to ensure that human remains are treated with dignity and respect at all times. In particular, the re-use provisions require cemetery operators to deal with the remains in accordance with any applicable religious or cultural practices.

In conclusion, the New South Wales Liberals and Nationals Government is committed to ensuring that future generations have equitable and affordable access to a range of options for honouring the memories of their loved ones. Implementing sustainable burial practices to better use our existing cemetery space is crucial to meeting the Government's objectives. To that end, this bill establishes a renewable interment rights scheme that appropriately balances protection of the right holder with flexibility for the cemetery operator to deliver the best outcomes for the community. I commend this bill to the House.

Mr NICK LALICH (Cabramatta) [9.40 p.m.]: In participating in debate on the Cemeteries and Crematoria Bill 2013, I draw to the attention of the House the objects of the bill:

(a) to recognise the right of all individuals to a dignified interment and treatment of their remains with dignity and respect,

(b) to ensure that the interment practices and beliefs of all religious and cultural groups are respected so that none is disadvantaged and adequate and proper provision is made for all,

(c) to ensure that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services,

(d) to provide for the operation of a consistent and coherent regime for the governance and regulation of cemeteries and crematoria,

(e) to ensure that the operators of cemeteries and crematoria demonstrate satisfactory levels of accountability, transparency and integrity,

(f) to ensure that cemeteries and crematoria on Crown land are managed in accordance with the principles of Crown land management specified in section 11 of the *Crown Lands Act 1989*.

My electorate of Cabramatta and the whole of south-west Sydney is a diverse area with a mixture of many cultures and communities. Those cultures have different methods of respectful interment for their departed: Some carry out burial and some carry out cremation. Each culture has its traditions that ought to be respected. For example, in the Buddhist culture, of which many of my constituents are followers, there can be burials but the vast majority choose cremation. For remembrance, rather than having a burial plot in the ground, the temple houses a tablet with the name of the departed person inscribed so that relatives and descendants can come and pray and offer proper respect to their late relatives. Twice a year the temples of Cabramatta are filled with families who come to pay their respects during the Qing Ming ceremony, which is the sweeping of graves ceremony, and for the Hungry Ghost festival, where fresh food and new clothing is offered to those who have departed so that they have fresh food to eat and new clothes to wear in their afterlife. The Vietnamese Buddhists follow similar customs.

I am advised that some community groups were given only one night to examine this bill before the period of consultation ended. The bill is over 100 pages in length. Many members of the boards of the temples—certainly in my area—perform their tasks on a voluntary basis. They give their time when they can. On top of that, for many of them English is not their first language. To give a group one night to read, understand and formulate a position on legislation in a lengthy document that has been written in complex legal language is unfair. It is just not right. Many members who preceded me in this debate have referred to the limited tenure 25-year voluntary interment process that is being considered. There are many ways of changing cemeteries. When I was in Europe I visited some of the graves in the area where my family came from. Some families have generations spanning 200 years buried in one grave. They dig a conventional grave and put up walls about 18 inches high from the bottom of the grave. They lay a concrete slab on top of the two walls and the coffin is placed on the concrete slab when the person is buried and their body is allowed to decompose.

When the next person in the family dies, the grave is opened, the coffin is taken out and the concrete slab is lifted. The bones of the first deceased person are placed in the chamber under the concrete slab, and that process is repeated. The grave is re-used. There are ways of making the best use of gravesites without disinterring people. I am sure that in my electorate, which has very great numbers of adherents to Catholic and Christian religions, there will be great concern about the limitation of 25 years as a period of interment. I would be quite upset if anybody tried to remove my mum and dad from the grave in which they are interred. My dad devoted a lot of time to making that grave and spent a lot of money on building the headstone and making it in the fashion he wanted. If I found 25 years later that that had all been dismantled and a little plaque had been put on the cemetery wall to replace it stating "Mr and Mrs Lalich were buried here once upon a time and their grave has been re-used", I would take great offence. For myself, while I hope I do not depart this world for quite a while yet—I know some people say that that can be arranged—the arrangement I propose is to have two graves in one gravesite, which currently is permitted. The first coffin will be buried deeper than the other, and the later coffin will be placed on top, which enables one grave to be used for two people.

There is no need for a limitation of 25 years for gravesites. The United States of America has 300 million people in an area that is the same size as Australia, yet there is no discussion in the United States of time-limited burials. Considering the land mass of Australia and its population of only 23 million, we do not have to think about time-limited burial systems. All that this bill will achieve is to upset a lot of people whose religions and cultures will be offended by an idea that has not been properly thought through. If Australia had a population of 300 million people, it would be all right to start thinking about such a proposal. But we have plenty of land in Australia. As a member who preceded me in this debate said, country people do not have to worry about that type of proposal because they have massive areas of land around them and they do not have to think about time-limited burials. As I said, there are ways around such a proposal, such as allowing the multiple use of gravesites for interment of members of one family.

The matters dealt with by the bill are especially important to my community—and to all the people of Sydney. I feel that if any reform to current burial rights is seriously considered, staff from the department or the

Minister's office should actively seek out people at an early stage to explain the legislative changes clearly—unlike the case in my electorate when they came the night before the legislation was introduced and the consultation process had ceased. They presented the bill as a fait accompli and said, "What do you think about this?" I hope the Minister will understand what I am saying. I ask her to please visit my electorate and its temples to explain the situation to my constituents so that they understand exactly what this new legislation means, what the 25-year interment means, and what time-limited burials mean. The Government has not really explained those proposals. If this legislation is passed by Parliament tonight without amendment, I believe it will be a great sin and contrary to the Christian interest.

Mr RON HOENIG (Heffron) [9.47 p.m.]: In participating in debate on the Cemeteries and Crematoria Bill 2013, I adopt the remarks of the Opposition Whip and member for Mount Druitt. Earlier as part of his celebration of his election 30 years and one week ago, which was recognised by the parliamentary Labor Party, he gave one of the most impressive and thought-provoking speeches I have heard in the short time I have been a member of this House. One of the things that the Father of the House brings to our attention is institutionalised memory. He brought to the attention of this House attempts by the funeral industry in the late 1980s to sell a bill of goods to the then government of the day, which happened to be a Coalition government. The attempt was rejected. The funeral industry later made the same approach to a Labor government, which was rejected. The same proposal, albeit slightly modified, has appeared again before a relatively newly elected Coalition Government.

Interestingly, I inquired of the Opposition Whip whether the same numbers to which the Minister referred in his second reading speech were the numbers used in 1989—that capacity would be reached in 30 or 40 years—and his recollection is that they were. Despite the intervening 24 years, the same figure has been used. I wonder whether the Minister's second reading speech and the speech prepared for the member for Drummoyne are recycled speeches that had been prepared for previous Labor and conservative governments. There are myriad cemeteries and crematoria, managed by State agencies, local government, public and religious trusts, community and other organisations—further separated by denominational portions—and I accept that there are areas, in Sydney particularly, where cemetery space is limited. Botany Cemetery, in my electorate, is one. For a number of years the cemetery board has been unsuccessfully endeavouring to expand that land. It has caused a great deal of consternation, particularly to the Greek Orthodox Church and community and to the Jewish community.

I commend Father Steven Scoutas from St Spyridon's Greek Orthodox Church for his relentless campaign to try to ensure that those in the Greek Orthodox community can be interred in areas reasonably proximate to where their families live. He has been supported in that by the Jewish community. I made enquiries today of Rabbi Elie Farkas of the Maroubra synagogue as to Jewish burial practices. I also enquired of the Hon. Shaoquett Moselmane in the other place and was told that Muslim concerns are the same as or similar to those of Jews in relation to cemeteries. The Jewish community is concerned about this resurrected policy of renewable interment sites because a Jewish cemetery is a place where members of the Jewish faith are buried in keeping with Jewish traditions. It is known in Hebrew as the House of Eternity. The land of the cemetery is considered holy and a special consecration ceremony takes place on its inauguration. Establishing a cemetery is one of the first priorities for any new Jewish community. It is regarded by the Jewish community as a holy site, in perpetuity.

The burial practices of the Jewish community are so significant to them because Jews have mandated for three and a half thousand years that they will be buried in the same way as their ancestors. The Jews believe it is a Biblical commandment to bury one's deceased immediately after passing and that it is forbidden to leave the deceased unburied overnight, unless it is for his honour. The Jews believe that one may not put off a burial unnecessarily. The Jewish sages state that the soul is in turmoil until the body is properly buried in the ground. It is also forbidden for Jews to have an open casket, which is considered extremely disrespectful to the deceased. According to Jewish law, a Jew is to be buried as he is born, complete with all his limbs and organs. The human body is considered by Jews as sacred in death as it was in life as it contains a godly soul. The Jew must be buried in a traditional grave in the ground, so that the body may return to the earth. Other burial practices, such as vaults, mausoleums or other alternatives to traditional ground burial, are strictly forbidden according to Jewish law.

The Jews believe fundamentally and have learnt from Kabbalah, that when a proper kosher burial is not administered, the deceased's soul is stuck in a state of turmoil and cannot find rest until the body's remains are given a proper Jewish burial and allowed to be absorbed into the earth, even after many years. There is a prohibition, even after thousands of years, against that sacred site being interfered with.

ACTING-SPEAKER (Mr Lee Evans): Order! Members will resume their seats. The member for Heffron has the call.

Mr RON HOENIG: An issue of considerable concern to the Jewish community—and I suspect also to the Muslim community—is the proposal to provide for family members to take a cheaper option if, in fact, they are under financial pressure at the time of the passing of a loved one. As the Opposition Whip explained, there are four areas where those organising a funeral service for a loved one will be given an option. If the bill is passed in its present form, the costs factor for a renewable option may well cause those decisions to be made, even with the best of intentions. It would be anathema for the Jewish community to in any way encourage a law of the State that would cause any person or any family member to select a burial option for a loved one that was not permanent. It is a fundamental premise of the Jewish religion that the body of an interred person should not be interfered with. The concept of a Jew being removed from his grave and placed—as the Opposition Whip suggested—in a mass grave or ossuary box, would cause considerable consternation to the Jewish community in this State. That part of the Cemeteries and Crematoria Bill 2013 is opposed by the Opposition, which causes us to oppose the entire bill.

Mr CLAYTON BARR (Cessnock) [9.57 p.m.]: I speak on the Cemeteries and Crematoria Bill 2013. Together with some of my colleagues, I have considerable concerns about this bill, especially the idea that the space in which a person has been buried could be onsold, resold or re-used. I had the good fortune to spend about seven years of my life working with cancer sufferers and I experienced the deaths of a number of people from that disease. I was exposed to a significant amount of grief and loss counselling during those years. Eminent practitioners of grief and loss counselling say that the importance of having somewhere to go to pay tribute to a deceased person is not reduced by the passing of time. I heard various stories during that time of people who 30, 40, 50 and even 60 years on still felt the need to go to a grave to pay tribute to a person who had died.

I am shocked and surprised that this bill has been brought to the House by a member of The Nationals. Obviously, for The Nationals land is not an issue and I appreciate that The Nationals are living in the country but thinking of the city. I note that the member of The Nationals who is the Minister in charge of the bill has stated that space is an issue. I appreciate the fact that in the matter of cemeteries and crematoria, space is an issue. Australia is an enormous place and we should have plenty of capacity to ensure that people are treated as respectfully in death as they were in life. It is despicable that this bill proposes that gravesites be onsold at some point 25 years after a person's death. Such a proposal suggests a difference between the rights of the haves and the have-nots; that is, those with wealth can ensure their grave is secured for eternity and those without cannot.

Just two months ago I experienced something special with my wife, whose father died 19 years ago on 30 August. We shed a tear that night. She still visits her father's grave and continues to experience considerable grief at losing him one day before her twenty-first birthday. I find it offensive that at 25 years after his death, which is only six years away, someone might come to us for more money to preserve his gravesite. Indeed, when my wife's father was buried she purchased the space next to his because she wanted to be buried beside him. Our grief and sense loss mean that we need a site that has a tombstone, headstone or mark of a person's existence. We cannot predict what people will want in the future. I have a five-year-old son, and three daughters aged two, eight and nine. I cannot predict when they might want to visit my gravesite; it may be when they get married, have children or turn 21, 30 or 50. In death I certainly do not want to leave them with an ongoing debt or having to pay more money into a fund to secure my resting place.

Having said all that, unlike some members I do not speak from the religious perspective. My view reflects grief and loss, which we all experience regardless of our religious perspective. It is abhorrent to think that we might onsell, upsell, future sell, or make ongoing payments for the place in which we are laid to rest or leave our families with the ordeal of preserving our place on this earth. I cannot believe the Cemeteries and Crematoria Bill was accepted by the Cabinet and was introduced in this place. I am proud that the Labor Party will oppose this bill, as do I.

Mr MICHAEL DALEY (Maroubra) [10.03 p.m.]: The objects of the Cemeteries and Crematoria Bill 2013 are:

(a) to recognise the right of all individuals to a dignified interment and treatment of their remains with dignity and respect,

(b) to ensure that the interment practices and beliefs of all religious and cultural groups are respected so that none is disadvantaged and adequate and proper provision is made for all,

(c) to ensure that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services,

(d) to provide for the operation of a consistent and coherent regime for the governance and regulation of cemeteries and crematoria,

(e) to ensure that the operators of cemeteries and crematoria demonstrate satisfactory levels of accountability, transparency and integrity,

(f) to ensure that cemeteries and crematoria on Crown land are managed in accordance with the principles of Crown land management specified in section 11 of the *Crown Lands Act 1989.*

They are unarguably worthy objects. However, as we have heard tonight, the bill has more to it than meets the eye. Members who have not dealt with death and burial or who do not have a cemetery in their electorate—especially one that must perennially deal with expansion challenges—might not readily appreciate the complexity surrounding this issue. Certainly, this issue causes a great deal of concern, emotion and all those intangibles that legislators find difficult to deal with. My electorate—which is in one of the most beautiful areas of Sydney and ironically looks out over some pristine coastal land at Port Botany—is home to the Botany Cemetery. I have no family or friends buried there. However, I know that for the past few years the cemetery trust has been dealing with people in the surrounding communities who have loved ones, friends and respected elders buried there, whether they be Catholic, Anglican, Jewish, Buddhist, Greek Orthodox or whatever. The preservation of that cemetery is important for those families and the community.

The Botany Cemetery trust—or the Eastern Suburbs Memorial Park Trust as it is more accurately known—has struggled to find more land for the past few years. As the local member I know that that issue is taken seriously not only by the trust, because its continued corporate existence is in question, but also by those local residents who want to continue to bury family with family and friends with friends. The cemetery's expansion is limited by the port of Botany and by the Chinese market gardens to the south. The market gardens have been there for at least 70 or 80 years—some portions for a century—and any suggestion that the cemetery might encroach generates great tension. The council and others have found that tension difficult to resolve. The Eastern Suburbs Memorial Park Trust now has a reprieve because some of the market garden land is unoccupied. Now is the time for local people who earnestly want to resolve this difficult issue to recognise that no heritage would be lost and it would not be unreasonable to accede to the wishes of the cemetery trust and those who have pursued this proposal.

My colleague the member for Heffron mentioned Father Steven Scoutas, who, on behalf of the Greek Orthodox community, has advocated for this expansion. People of the Jewish faith who are moving into my area in great numbers and who wish to bury their family with members already buried in this cemetery are concerned about this bill. The Chinese community is also concerned about this issue. Friends and family want to continue to bury their loved ones in the area in which they have chosen to live, which in many cases has been decades. They may be Catholics like me, they may follow other faiths or they may not follow any faith, but they want to be buried where they have grown up.

It is time for those who hold sway over this issue to realise it would not be unreasonable to allow the cemetery to expand onto the unused Chinese market garden land. It is certainly occupied by weeds and snakes, but I am sure we can relocate the odd brown snake. This is a difficult issue. Many members have spoken about the contentious issue of re-usable graves. We must acknowledge this issue has varying degrees of agreement and disagreement in this House, which I do not wish to go into tonight. I note that my colleagues in the Opposition have stated that they will not support this bill and I stand with them at this time.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Divisions and Quorums

Motion by Mr BRAD HAZZARD agreed to:

That standing and sessional orders be suspended to provide that:

(1) For the remainder of the sitting, no divisions or quorums be called.

(2) At the conclusion of Government business, the House adjourn without motion moved.

COMPANION ANIMALS AMENDMENT BILL 2013

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT BILL 2013

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

RESIDENTIAL (LAND LEASE) COMMUNITIES BILL 2013

Second Reading

Debate resumed from 18 September 2013.

Ms TANIA MIHAILUK (Bankstown) [10.14 p.m.]: I lead for the Opposition on the Residential (Land Lease) Communities Bill 2013. The bill repeals the Residential Parks Act 1998 and provides for the governance and regulation of residential communities. The Residential Parks Act 1998 was implemented by the Carr Government with the purpose of outlining the rights and obligations of park owners and residents, including those under residential tenancy agreements, to establish legislative protection for residents and to establish procedures for resolving disputes between park owners and residents. The bill proposes to completely rewrite the existing laws relating to residential communities. Terms such as "residential communities", "home owners", "site fees", "operators", "homes" and "community rules" are used to replace words such as "caravan parks", "moveable dwellings", "relocated homes" and "rent". "Residential communities" is defined in proposed section 4 (1) as:

> An area of land that is comprised of or includes sites on which homes are, or can be, placed, installed or erected for use as residences by individuals, being land that is occupied or made available for occupation by those individuals under an agreement or arrangement in the nature of a tenancy, and includes any common areas made available for use by those individuals under that agreement or arrangement.

The object of the bill is sixfold. It attempts to improve the governance of residential communities, set out the rights and obligations of operators of residential communities and home owners, enable prospective home owners to make informed choices, establish procedures for resolving disputes between operators and home owners, protect home owners from bullying, intimidation and unfair business practices, and encourage the growth of residential communities across New South Wales. The key distinction between the objects of the proposed bill and the previous Act is the omission of the objective to "provide legislative protection for residents", shifting the focus to operators.

The Opposition will not oppose the bill in this place. However, it does not strike a fair and equitable balance between the interests of park residents and operators. In November 2011, the New South Wales Government released a discussion paper entitled "Improving the governance of residential parks". The draft bill was released in April 2013 and further amendments were proposed due to significant community opposition. More than 2,000 submissions were received. In July 2013, the Opposition visited concerned representatives of the Port Stephens Park Residents Association and representatives from other residential parks at Salamander Bay. It was clear at that meeting that the draft bill would have a negative financial impact on elderly park residents who are living on a fixed income such as the aged pension. Those concerns have not been allayed by the bill before the House. Over the course of the Government's review process, the Opposition also met with the Affiliated Residential Park Residents Association NSW, the Park and Village Service and several residents' groups that were concerned about the bill. Although the Opposition does not oppose the bill, it reserves the right to propose a number of amendments because it requires further scrutiny in the other place.

The Opposition has a number of concerns that I will detail. Proposed section 110 (2) provides for a voluntary sharing arrangement in which the home owner has to agree to one or more of the following conditions:

> (a) to pay a specified entry fee to the operator, on entry into the agreement or in any other manner specified in the agreement,
>
> (b) to pay deferred site fees to the operator, being site fees the payment of which is deferred in a manner specified in the agreement,
>
> (c) to pay a specified sale amount to the operator if the home is sold by the home owner, with that sale amount being either (but not both) of the following:
>
> (i) a specified share of the capital gain in respect of the home,
>
> (ii) a specified on-site premium of the total sale price of the home as determined in the agreement,
>
> (d) to pay a specified exit fee to the operator, being a fixed fee (not of a kind referred to in paragraph (c)) that is payable if the home is sold or removed from the site.

"Capital Gain" is defined in proposed section 110 (7) as "any increase between the amount that the home owner paid for the home and the amount that the purchaser paid for the home. Site fees and any fees or charges payable under the site agreement are not to be included in the calculation of the capital gain". These provisions will mean that home owners who spend money on improving their homes may be significantly disadvantaged because the gain is calculated solely by subtracting the purchase price from the sale price of the residential property. These provisions will permit entry fees, exit fees and deferred site fees, and will place no limit on capital gain or site premiums. They simply provide an opportunity for operators to secure a share of the home owner's capital. Current home owners will be subject to the new "voluntary sharing" provisions upon signing their new lease or by renewing an existing agreement. There is grave concern that residents will be pressured into sharing arrangements. The Opposition foreshadows that it will thoroughly examine proposed sections 110 and 111, which are key provisions in this bill, in the other place. Residents will be significantly disadvantaged by forced agreements, which are voluntary in name only.

New residents will have little option but to agree to one or more of the terms of proposed section 110 (2) (a) to (d) if they want to enter a residential community. Proposed section 109 (2) (b) allows an operator to refuse to enter into a new site agreement if a prospective purchaser of a home does not agree to the terms of the agreement offered by the operator. The bill should not prevent the right to assign an existing residential site agreement. Proposed section 109 (2) (b) undoubtedly shifts the emphasis of the bill in favour of park operators. Proposed section 109 (5) and (6) and proposed section 111 (4) make reference to increases in site fees as determined by "fair market value" upon residents entering into a new agreement with park operators. Generally, under part 6, division 5, proposed sections 70 to 75, the Consumer, Trader and Tenancy Tribunal is empowered to make orders concerning increases in site fees.

References to "fair market value" in subsequent parts of the bill, which refer to the parties coming to an agreement, are inherently inequitable because operators are the only party determining the terms. Unless an increase for the entire community has occurred, the site fee for a new agreement should be the same as it was under the previous arrangement for that site. Operators should not be able to increase site fees at a whim for individual residents where an operator's refusal is used as an ultimatum if a resident disagrees. The Opposition asks the Government to reconsider the mechanisms for site fee increases within proposed sections 65, 69, 73 and 74 and foreshadows that amendments will be moved in the other place. Proposed section 65 (2) states:

> A site agreement may provide that site fees payable under it may be increased in accordance with either of the following procedures:
>
> (a) at specified intervals (or on specified dates) by a fixed method, which may be either:
>
> (i) by fixed amounts, or
>
> (ii) by a fixed calculation (for example, in proportion to variations in the Consumer Price Index or in the age pension).

Linking an increase in the age pension as proposed in section 65 (2) (a) (ii) is objectionable to the Opposition. I foreshadow that we will be moving an amendment in the other place. This is purely a reason for an operator to effectively take more money off elderly residents on a fixed income. Members in the other House will be urged to reconsider the need for a reference to the age pension. I ask that the Minister respond to this in reply. I again foreshadow that amendments will be moved in the other place, and I hope this will be rectified.

A high proportion of residential communities are located within tourist areas, such as at the residential part at Port Stephens which I visited earlier this year. Tourist operations contribute a significant revenue stream to operators, whilst also contributing to significant increases in operating costs to residential communities. However, under the bill residents will have to meet the burden of these increased site fees. The Government has completely disregarded this issue when preparing this bill. For example, under proposed section 73 (4) the Consumer, Trader and Tenancy Tribunal cannot make an order "that would result in an increase lower than that needed to cover any actual or projected increase (established to the satisfaction of the Tribunal) in the outgoings and operating expenses for the community …". This provision could result in significant site fee increases for residents.

Whilst a park operator will enjoy the benefit of revenue from tourist activities, the operating expenses of such activities can be used to satisfy proposed section 73 (4). Proposed section 73 (4) does not require the Consumer, Trader and Tenancy Tribunal to consider what, if any, proportion of the increased expenses is due to tourism. As such, it is paramount that further consideration is given to the construction of this provision. If

proposed section 73 (4) were not in the bill, it would allow the full and proper application of proposed section 74 (1) (j) "whether the increase is fair and equitable in the operation of the community". This proposed section is currently limited by proposed section 74 (2), which allows the tribunal to disregard proposed section 74 matters in relation to an application under proposed section 73.

Further, proposed section 74 (1) (b) makes reference to the words "or projected". Projected costs to residents that may never eventuate should not be taken into account as a consideration by the Consumer, Trader and Tenancy Tribunal when determining what an excessive fee increase is. Common sense should prevail, in that residents should pay only for the actual outgoings of their residential community. Under the current legislative framework a single owner within a residential park has the ability to challenge a proposed site fee increase. Proposed section 69 (2) will make it a requirement that 25 per cent of owners within a residential park must collectively oppose a site fee increase. After consultation with relevant community groups, the Opposition believes that the figure of 10 per cent would more reasonably address the collective and individual concerns of infringements of home owners' rights against the interest of park operators. I again foreshadow that an amendment will be moved in the other place.

Proposed section 140 (2) (a) and proposed section 141 (3) state that compensation must be paid "in advance" if a home is being relocated due to the termination of a residential agreement by an operator. However, there are different provisions relating to compensation—namely, in proposed section 140 (2) (a), where a home owner is relocated to another community, and in proposed section 141 (3) where there is no relocation to another community. Proposed section 140 operates if relocation is the result of an operator terminating a site agreement for closure, change of use, or if an operator requires a home owner to relocate. Proposed section 135, which deals with relocation of home owner by agreement, and proposed section 136, which deals with relocation by operator's request, do not contain compensation provisions.

Regardless of the method—by agreement, request or termination—the impact upon residents is the same. Compensation is a mechanism that can lessen the burden and inconvenience faced when residents have to find a new home. This should be the paramount concern of the relocation provisions. I foreshadow again that the Opposition will argue in the other place that the compensation measures in proposed sections 140 and 141 should also apply to proposed sections 135 and 136. Proposed sections 50 and 51 of the bill refer to payment of special levies by residents that could be used for community upgrades. Under proposed section 51 (1), home owners are required to pay for park infrastructure if 75 per cent of home owners agree to the special resolution.

The responsibility of paying for park infrastructure should reside solely with the park operators. The provisions within these proposed sections are simply superfluous to requirements. Within the current provisions of the bill, park residents can resolve to improve their infrastructure at their own expense and still be hit by increased site fees due to higher operating expenses for operators. I foreshadow that the provisions of proposed sections 50 and 51 will be reviewed in the other place. Proposed section 124 applies when an operator terminates a residential agreement because of the closure of a park. This section of the bill does not include similar provisions to those in proposed sections 125 (2) (a) and (b). The provisions of those sections ensure that the Consumer, Trader and Tenancy Tribunal can provide proper oversight if an operator terminates a resident's agreement due to park closure or a change in the use of the park under the Environmental Planning and Assessment Act.

Similar provisions to proposed sections 125 (2) (a) and 125 (2) (b) in proposed section 124 would give park residents a wider safety net in the unfortunate event that their park is closed. The Park and Village Service [PAVS] has raised concerns about proposed sections 127 (1) and 127 (3). The service has noted that there is the potential for confusion with the added "note" in proposed section 127 (1) on termination for a lack of authority and proposed section 125 (4) (b) on termination in relation to the use of the site clause. Section 18 of the current Residential Parks Act 1998 avoids the confusion in proposed section 127 (1). It says:

> … that the park owner warrants that there is no legal impediment (of which the park owner had or ought reasonably to have had knowledge at the time of entering into the agreement) to occupation of the residential premises as a residence for the period of the tenancy.

Further, the Park and Village Service has made strong representations that proposed section 127 of the bill offers far weaker protection for park residents when contrasted to current section 104 of the Residential Parks Act. Sections 18 and 104 of the current Act adequately protect the interests of park residents in the unfortunate instance of termination—the bill's proposed section 127 (1) and proposed section 127 (3) do not do so as effectively. I urge the New South Wales Government, and the Minister for Fair Trading in particular, to consider

the issues I have raised in detail. These are genuine concerns that have been raised by relevant stakeholders within New South Wales after extensive analysis of the bill. I take this opportunity to thank the Minister for a number of briefings I received from his office. I also take this opportunity to thank the Affiliated Residential Park Residents Association New South Wales Incorporated [ARPRA], the Park and Village Service [PAVS], the Tenants Union of NSW, and the Port Stephens Park Residents Association for their consultation with the New South Wales Opposition.

I also thank the many hundreds of residents from across New South Wales who wrote to me directly to relay their concerns about the initial draft bill and the amendments. I take this opportunity to applaud the many other groups and individuals who have voiced their concerns in relation to this bill and brought their concerns to the attention of many members of this House. It is imperative that the voices of the park residents are listened to. They are the stakeholders who will be most directly affected by this bill. There must be—and I hope that there will be—further consideration given to this legislation by the Minister. I believe we will have an opportunity in the other place, with the crossbenches and minor parties, to sit down and balance more equally in this bill the interests of residents and operators.

Mr GREG APLIN (Albury) [10.32 p.m.]: From 2009 to 2011, I was working with experts and ordinary people on a range of subjects that burrowed deep into modern home life in New South Wales. Some of these people lived in retirement villages; some owned apartments in small or large complexes; and others had chosen to live in a residential park, now to be known as a "residential land lease community". It was surprising how many of their concerns, fears and hopes boiled down to the same basic two questions: How should we live together as neighbours? What is the role for Government in regulating this? Some might argue that our population has become more self-absorbed than ever. Are we less tolerant of our neighbours? Have the friction points become more inflammatory?

These are difficult questions for government, as any potential solution or improved process will of necessity reach right into people's homes—and that is very personal space. Should someone be able to smoke a cigarette on the balcony next to yours? Is the visitor parking space open to semipermanent occupation by the family downstairs with two cars? Why does the tenant in unit 5 always prop the security door open with a brick? Should you stand up for yourself even if this might make you a target for victimisation? None of this is easy. People are complex creatures. After meeting representatives of organisations representing owners, managers, tenants and other residents of strata title, retirement villages and more, I thought I had a clear understanding of the issues. But then I ventured into the world of residential land lease communities. This is something quite different.

Yes, many of the issues and concerns overlap with other forms of what might be called "living in common". But there are unique problems that emerge in residential land lease communities. For a start, as a resident you might own your own home but you do not own the land upon which it sits. You, the resident, have chosen to live in a residential land lease community because you value the casual terms of occupancy—you can leave whenever you like. But, having spent $250,000 on a "relocatable home", you find it is almost impossible to shift it elsewhere. You cannot simply pack up and leave. Furthermore, if you have a dispute with management in a residential land lease community then you have to live with the consequences. Maybe you have fallen behind in your weekly levies; perhaps you disagree on how those levies should be spent. Sometimes there is a just a clash of personalities.

Generally, a tenant does not live in the same block as their landlord, and the manager or owner of a retirement village will go home—elsewhere—at the end of the working day. But in a residential land lease community it is highly likely that your park manager will be a resident alongside you. If there is friction between you, there will be nowhere to get away from it. You will bump into each other all the time. They are probably behind the counter where you buy your milk, or even swimming in the pool beside you. These are the kinds of pressures that make residential land lease communities an exquisitely difficult and tortuous field for government regulation. Contact is heightened. Yet these same pressures combine to cry out for government intervention to establish a framework for civilised and inexpensive resolution of disputes and for improved day-to-day management. When listening to members of the Affiliated Residential Park Residents Association New South Wales Incorporated and the Park and Village Service I heard of the difficulties and pressures building within the residential land lease communities industry.

Common issues were: bullying and intimidation; unexpected and unaffordable increases in levies; restrictions on access to park facilities; difficulties selling homes within a park; issues surrounding alterations and additions to a home; and fear of eviction—particularly in the event of redevelopment of the park. My

investigations uncovered an industry that was the subject of strong consumer demand but which was locked in the past. Values for land with water views were escalating. Pressure was mounting for parks to redevelop in new ways. Old camp sites were under threat. But the Government had taken its eye off the ball. The Government of the day did not even know how many residential land lease communities were operating in New South Wales, let alone how many people lived in them. There was precious little training of park managers, particularly on issues such as anti-discrimination and privacy laws. And applications to the New South Wales Consumer, Trader and Tenancy Tribunal had gone through the roof, up from 1,345 applications in 2008-09 to 2,439 in 2009-10. Those high dispute numbers continued at least into 2012. The figures for 2013 are yet to be published.

Here was an industry that was failing to reach its potential. Economically, there were signs of neglect and also of profiteering. Structurally, I could see that the existing legislation and governance standards within the industry contributed to the problems and unrest, virtually compelling residents and management to head off to the Consumer, Trader and Tenancy Tribunal over what were essentially administrative rather than legal issues. The process put stakeholders, quite unnecessarily, in the position of being litigious combatants in order to get their dispute resolved. It is no wonder that allegations of bullying and intimidation came to the fore in that environment. Yet large numbers of people saw life in residential land lease communities as some kind of nirvana. Australians seem to be in love with the park lifestyle—until they start revealing, as they did to me, feelings of being trapped. All their earthly assets were tied up in their home on park land and they could not afford to move elsewhere.

In light of these problems a policy for improved governance was developed and this was taken to the 2011 election. Since that time it has given me great pleasure to see a rollout of legislative and other reforms, along with the necessary community and stakeholder consultations and debate, bringing the new policy to life. I thank the Minister for Fair Trading for seeing the vision through. I acknowledge the difficulties that he and staff of the Office of Fair Trading have faced along the way. Once again I say that people are complex, and how they live together is highly sensitive ground. When it comes to how we live in our homes, you will never please all of the people all of the time. However, it is essential that the Government listens to the people and modifies processes and pathways so that tolerance flourishes and the various stakeholders are not left with no course of action other than to beat a path to the door of the Consumer, Trader and Tenancy Tribunal over every issue.

The Residential (Land Lease) Communities Bill 2013 introduces a new governance system that deals with long-term concerns as well as problems that derive from the current legislation, the Residential Parks Act. It has taken several years of careful deliberation and planning to reach this point. Of course, there have been many meetings with stakeholders, a thorough discussion paper released for public consultation in late 2011, an exposure draft bill last April and more stakeholder meetings. It has been fantastic that organisations such as the Park and Village Service, the Affiliated Residential Park Residents Association, and the Caravan and Camping Industry Association of New South Wales have been passing news on to their members and gathering input across a large range of individual issues. Their emails and newsletters have fostered great debate and interest. This has been an incredibly active process of community engagement and resulting legislative refinement. I understand that more than 2,200 comments and submissions were received as part of the process. People and organisations have availed themselves of the opportunity to influence these legislative reforms over a two-year period. [*Extension of time agreed to.*]

I applaud this participation. Among its 100 or more changes to existing laws and practices, the bill makes some key reforms. As a means of dealing with poor quality management and inadequately prepared park staff there will be compulsory education for all new operators. Those who manage or control the lives of others must understand and follow a raft of important laws. This attention to our State's regime of anti-discrimination and interpersonal laws is particularly sensitive when the affected population will include many who are elderly, on fixed or low income or who are poor speakers of English or suffering from physical or mental ill health.

Increases in site fees must be made under a new community-based approach. The process for a resident to challenge a fee increase has been simplified and they can now join together in mediation. Residents must understand the parks system before they take the plunge. The bill introduces more effective disclosure requirements so that prospective residents will have greater knowledge about the rights and responsibilities that will apply in their new home.

There is an innovative provision in part 5 to provide that residents can establish a special levy to fund additional services or facilities provided there is written support of at least 75 per cent of all home owners. Part 6 introduces compulsory mediation for disputes about site fees. Importantly, an application can be made on a collective basis. This is in part an attempt to deal with the existing profusion of claims in the Consumer,

Trader and Tenancy Tribunal. Future site agreements will bring with them certain opportunities for park operators to share in proceeds of a sale. Proposed section 110 sets out the new provision. Proposed section 110 (2) provides:

> A voluntary sharing arrangement is any provision under which the home owner agrees to one or more of the following:
>
> (a) to pay a specified entry fee to the operator, on entry into the agreement or in any other manner specified in the agreement,
>
> (b) to pay deferred site fees to the operator, being site fees the payment of which is deferred in a manner specified in the agreement,
>
> (c) to pay a specified sale amount to the operator if the home is sold by the home owner, with that sale amount being either (but not both) of the following:
>
> (i) a specified share of the capital gain in respect of the home,
>
> (ii) a specified on-site premium of the total sale price of the home as determined in the agreement,
>
> (d) to pay a specified exit fee to the operator, being a fixed fee (not of a kind referred to in paragraph (c)) that is payable if the home is sold or removed from the site.

Proposed section 110 goes on to provide:

> (3) If a home is sold and the operator is the selling agent, the operator may deduct any amount payable under the voluntary sharing arrangement from the proceeds of the sale that are held by the operator in accordance with the agreement.
>
> (4) If a home is sold and the operator is not the selling agent, the selling home owner must pay any amount owing to the operator under the voluntary sharing arrangement within 14 days of the sale being finalised.
>
> (5) The Tribunal may, at any time, on application by an operator, make an order requiring a home owner to pay any amount owing to the operator under a voluntary sharing arrangement together with interest determined by the Tribunal.
>
> (6) A sale amount is not payable if a home is sold to be removed from the residential site or is purchased by the operator or a close associate of the operator.
>
> (7) In this section: capital gain means any increase between the amount that the home owner paid for the home and the amount that the purchaser paid for the home. Site fees and any fees or charges payable under the site agreement are not to be included in the calculation of the capital gain.

Proposed section 110 gives me some difficulty but I understand why it is in the bill. It introduces new concepts of sharing based upon—but far from identical to—the deferred management fees found in many retirement village contracts. Proposed section 111 goes on to provide particular elements of consumer protection. This is novel territory, and the use of sharing agreements will require close monitoring by Department of Fair Trading staff.

There are 17 residential communities in my electorate. I believe many things will improve for them under this new regime of governance. At last we know the number of residential land lease communities operating in the State. We know where they are and how many people live in those communities. This bill forms the next stage by offering new processes, greater disclosure and information, and improved dispute resolution. These are things that bring the industry to life and soothe the sometimes troubled waters of communal living in an Aussie nirvana. I commend the bill to the House.

Mr GREG PIPER (Lake Macquarie) [10.44 p.m.]: The Residential (Land Lease) Communities Bill 2013 proposes wideranging changes to the regulation of residential parks and will replace the Residential Parks Act 1998. This is a significant and comprehensive piece of legislation that will directly impact the tens of thousands of people in New South Wales who are living in this increasingly popular style of accommodation. The Government register indicates there are more than 33,000 people living in more than 500 residential villages across the State. They are particularly prevalent along the coast and I understand there are up to 1,000 people living in residential communities in my electorate of Lake Macquarie. I note many people also live in this style of accommodation in the nearby electorate of the member for Swansea and in other places around our area.

It is important that we get this legislation right. Many of those who choose land lease accommodation are cash-strapped retirees who cannot afford to invest in traditional real estate or pay exorbitant fees to live in upmarket retirement complexes. Park and village housing is the only affordable independent living option available to them, but it leaves them vulnerable because they do not own the land their homes occupy. I do not

need to mention how important this form of housing is from a social services standpoint. Without this lower cost alternative, many of those who buy into residential parks and villages might otherwise be on the public housing waiting list. It is very much in the interests of government and the wider community to ensure that residential land lease villages remain a viable living option, especially for those with limited financial means.

I know that the consultation process for the bill was considerable and resulted in many amendments being made to the original draft. I acknowledge the work of the Minister in that regard. I also acknowledge the Government for having listened to park and village residents and amending some of the more onerous provisions of the draft legislation and I thank the Minister for facilitating meetings with him or his staff and resident advocates at my request. However, many aspects of this bill are still causing fear and anxiety among residents of land lease villages and communities.

I think it is fair to say that many believe the bill is less accommodating of the rights of residents than the legislation it will replace. They believe the new bill strengthens the position of park and village operators at the expense of residents. Even the wording of the objects of the bill has been changed to remove the specific reference to establishing legislative protection for residents. The legislation threatens to erode their rights on important matters such as security of tenure, negotiation of site fees, home sales, the automatic right of occupancy by family members and termination of leases, among other things. The concerns of residents stem from a perceived unequal power balance between park and village operators and home owners and the potential that is left open for reluctant home owners to be coerced into arrangements that are to their disadvantage.

From the outset, one of the most controversial provisions in the legislation is a proposed change that would allow park operators to take a percentage of the capital gain when a resident sells a home even though the operator has made no investment in the dwelling. Although this proposal was amended after consultation to become a voluntary option for those entering into new lease agreements, it has continued to cause disquiet among existing residents who see it as opening a door that will eventually force people into lease arrangements that trade off equity in their homes for reductions in land rent. Exacerbating those concerns is the provision that requires new leases to be renegotiated when a property changes hands, which goes against the current practice of allowing a seller to assign the existing lease to a new owner upon the sale of a home. Residents fear the provision has the potential to adversely affect their sale price and introduces an element to the sale process over which they have no control. There is a strong argument, therefore, that the residents' right to assign an existing lease upon the sale of their home should be retained.

Other changes to the negotiation and fixing of site fees have also sounded alarm bells for residents. Presently, an individual resident has the right to challenge a site fee increase through the Consumer, Trader and Tenancy Tribunal. The bill will require a minimum of 25 per cent of home owners in a community to agree to challenge a fee increase before mediation can proceed. While the residents advocates I have spoken to see validity in taking a community-based approach to site fee matters, they contend that the arbitrarily chosen quota of 25 per cent as the minimum proportion of community members able to enact a challenge is too high, given that age and health problems deter many people in residential villages from being politically active in such matters of community interest. Advocates I have spoken to have suggested a 10 per cent quota would be more appropriate for this constituency.

Another issue of site fees arises in mixed-use parks where substantial tourist operations exist. The kinds of facilities provided for holidaymakers often differ greatly from those required and commonly used by residents, and home owners rightly believe that their site fees should not subsidise infrastructure or operations that are almost entirely for the benefit of short-term visitors. There should be within the bill a provision to require operators of mixed-use parks and villages to separate the costs associated exclusively with tourist operations from those associated with infrastructure for permanent residents, so that site fees incorporate only the cost of the latter.

Also of concern is the new provision for the establishment of special levies to pay for improvements to community infrastructure. This section is loosely worded—I would go so far as to say dangerously ambiguous—in that it gives no definition of what sort of infrastructure constitutes the sort of community upgrade that might appropriately be funded by the so-called special levy. Neither does it set any time limits on how long a levy can be charged or an upper limit on the amount that can be charged, either by instalment or in total, or indicate that any refund would be payable to a home owner who leaves a village before facilities funded by a special levy are built. Given that the lead-in time and cost of these community upgrades could be substantial—if it was something of the scale of a new swimming pool, for instance—these considerations are not insignificant. Residents' advocates believe these special levies have the potential to cause undue financial

hardship for some home owners and could become a divisive issue within communities. Some believe the provision should be scrapped altogether. At the very least, I believe the rules governing the imposition of special levies need to be spelt out in much more detail.

Clause 44 (6) permits operators to disallow people on the basis of age—a provision that not only potentially contravenes discrimination laws but also fails to recognise situations that might require persons living in a retirement or over-55s village to have a younger family member living with them. An aged resident may have a disabled adult child in his or her care, or a son or daughter may need to move into a retirement village to be a carer for an elderly parent. Another not uncommon situation for older people is to suddenly find themselves having to accommodate grandchildren in a crisis, due to death, ill health or other unforeseen circumstances.

It is an unkind and unjust society that would force people to move out of their homes because of the need to have a younger family member in their care or, indeed, caring for them. Yet this is a scenario the bill leaves open. I realise that people who move into villages targeted at over-55s—or a similar age group—do so because they are attracted to a certain lifestyle, and I understand they want to preserve that lifestyle. However, the bill must also accommodate legitimate circumstances where younger people might need to live in a village where community rules specify it is designed for or targeted at older residents. I note, too, there is a potential conflict of interest in allowing an operator to be the arbiter of whether or not a younger person can reside in a village because land tax exemptions are available to parks primarily occupied by retired people.

The issue of community rules in general is a vexed one. Some villages have an extensive list of community rules that can make a residential community seem more like a highly regimented boarding school. I am encouraged by the Minister's intention to have a model set of community rules developed that communities will be encouraged to adopt. However, this still leaves open the opportunity for operators to add at whim other rules they want to impose. Perhaps there should be an independent approval process for rules outside the model set, so that the onus is on operators who want to impose additional rules to show that those rules are fair and reasonable.

I would also like to put on the record concerns over the termination, relocation and compensation provisions in the bill and the perception among many residents that the new legislation will reduce their protections and entitlements, as well as diminishing oversight by the tribunal. Of particular concern is the compensation payable when termination or relocation is forced by a change of park use. A change of use can render a home unsaleable on the open market and, as a result, almost worthless. This is a potentially devastating outcome for older persons whose home in a residential park is their primary asset. Their bargaining power is significantly undermined when the only realistic purchaser of their home is the operator of the park. While the tribunal can be asked to advise on the value of a home, its determination is non-binding. This is just one example of how the loose wording of the bill in regard to termination and relocation could leave home owners open to exploitation.

I will not propose amendments, as I understand these specific sections of the bill will come under closer scrutiny in the upper House. I hear that from the Opposition, but I have also heard that from the Minister. However, I would ask the Minister to take heed of the concerns that I and others in this place have outlined and consider making his own amendments where the rights of home owners are unclear or not properly protected. I would also ask the Minister to give serious consideration to bringing forward the review period of five years set out in clause 187. Realistically, this means that no recommendations from a review could be implemented before a period of six or seven years. Given the very broad scope of these reforms, and the widespread belief among community residents that many provisions may, in practice, play out counter to the intent of the bill, I believe a review after two or three years would be more appropriate. This would ensure unintended or detrimental consequences of the legislation are identified and addressed in timely manner. [*Extension of time agreed to.*]

It would be remiss of me not to mention in the context of this debate my disappointment at the reported discontinuation of government funding to the Parks and Villages Service, which for 17 years has provided independent and valuable advice to residents of residential land lease communities. That tradition of advocacy was honoured in the way the service actively conferred with and informed its members during the consultation period for this bill. I would like to acknowledge in particular the efforts of my constituent Noleen Robinson, a volunteer with the organisation and responsible advocate who has successfully and selflessly campaigned for many years for better recognition of the rights of residents.

While I acknowledge there have been substantial changes to the proposed legislation as a result of consultation and recognise the need for a revision of the laws governing residential communities, there are just

too many provisions of the bill that appear to be incomplete. This possibly leaves them open to misinterpretation and therefore possible manipulation, against the interests of residents. For that reason I cannot support the bill at this stage. Having heard some of the concerns that have been raised in this Chamber on behalf of residents and tenants of these parks by the Opposition, me and perhaps others, the Minister may see a way to accommodate some of those concerns with amendments made through his departments and brought into the upper House.

Mr GARRY EDWARDS (Swansea) [10.56 p.m.]: I wholeheartedly support this much-anticipated Residential (Land Lease) Communities Bill 2013 and note that my electorate of Swansea is home to the second-largest number of these communities in the State. I further note that during the course of negotiations and discussions culminating in this bill that about eight community meetings were held at various venues throughout the electorate. My office sent out four addressed mail-outs advising people at various stages where we were at with the draft. Certainly the 22 or so communities in my electorate have been made very well aware of things as we have gone along.

I applaud the Minister for Fair Trading, the Hon. Anthony Roberts, for bringing this bill to the House and for engineering important changes to improve the governance of residential land lease communities in New South Wales. For too long the residential land lease community sector was ignored. Operators and home owners alike complained that the current laws were outdated and complicated, especially as they were based on old tenancy laws. Change was absolutely necessary. This Government saw in opposition the need and made an election commitment, if elected, to conduct a comprehensive review of the laws—a commitment we quickly honoured. It was this Government that took the necessary steps to make things right and to develop these essential reforms. I join the Minister in acknowledging the leadership of the member for Albury, our colleague Greg Aplin, who, whilst in opposition, initiated the reform agenda.

This bill is the result of almost two years of the widest ranging consultation and collaboration at all levels. The general public, stakeholders representing the industry and home owners, and home owners and operators directly contributed. Over 2,000 comments and submissions were received over the course of the consultation period. It gives me great pleasure to note further that residents in residential land lease communities within my electorate of Swansea provided more than 50 per cent of the total number of submissions received. Many meetings were held, including several within my own electorate, with key stakeholders to further discuss the main issues. After the draft bill was released, the Government continued to work closely with representative groups to refine the draft. Together with stakeholders, we have developed reforms that will bring significant and sorely needed improvements to the laws and regulations relating to this sector.

Concerns were raised about a small number of the proposals during the consultation period. The Government listened and acted on those concerns, modifying the proposals to avoid unintended consequences. The proposal dealing with voluntary equity sharing arrangements was initially developed after consultation with representatives of residents and operators as a means of encouraging further investment in existing residential land lease communities, improving the viability of the industry and reducing the pressure on site fee increases. It recognised that much of the equity realised on the sale of a home on site comes from the increased value of the land, which is owned by the estate operator. The amended provision provides more protection to existing residents, more flexibility and choice to all parties and better distinguishes between the differing circumstances in which such arrangements may be offered.

Sharing arrangements will be permitted in future agreements in certain circumstances. When the operator-owner is selling a new home, he or she will be able to include a sharing term in the site contract offered to the incoming owner. That will have no impact on existing residents and may indeed help some outgoing residents, as operators may wish to outbid other potential buyers to buy the property for themselves. When a home is sold by one home owner to another, the operator must offer the incoming home owner the option of a rent-only site agreement with no sharing terms. Operators also can offer an agreement with a sharing arrangement, including whatever incentives they choose. However, it is entirely up to purchasers to decide which agreement they sign, and operators and existing residents will have the freedom to opt into sharing agreements by signing a new agreement once the legislation is enacted.

Importantly, however, if the operator is offering a new agreement, the operator must also offer a rent-only agreement. This will ensure that residents can negotiate changes to their agreement without the possibility that they will have to sign up to a sharing arrangement. To assist all residential land lease home owners in making an informed decision, a disclosure statement must be provided. Operators will be required to

give a copy of a short prescribed disclosure statement to each prospective home owner at least 14 days before entering into an agreement. The disclosure statement will include worked examples of any equity sharing arrangement being proposed. Another key area of reform flagged in the Government's original election commitment is the introduction of mandatory education requirements for new operators.

New operators will be required to undertake an education briefing so that they have a clear understanding of the laws. The briefing will be designed to ensure the new operator understands the laws, knows his or her responsibilities and has the skills to deal with the complex role of being an operator. By having a clear understanding of the rules, operators can help to prevent conflict by resolving many disputes before they escalate. The range of measures in the bill aims to achieve a better balance between the needs of home owners and operators to ensure that all parties feel secure within a viable and vibrant lifestyle industry. Residential land lease communities play an important role in providing housing choices—especially for people wanting to live in rural and regional areas, which are where 96 per cent of the State's residential land lease communities are located. [*Extension of time agreed to.*]

In my electorate I have seen the strong sense of community and highly valued networks that develop between the people who live in residential land lease communities. This bill will ensure that residential land lease communities will continue to offer a sustainable housing option for many people. It is well and truly time for this bill. I applaud the Minister for his doggedness in bringing this bill forward in such a timely manner. I commend the bill to the House.

Mr CRAIG BAUMANN (Port Stephens—Parliamentary Secretary) [11.04 p.m.]: I support the Residential (Land Lease) Communities Bill 2013. I begin by congratulating the Minister for Fair Trading on introducing this bill to the House. I also congratulate the member for Albury while in opposition as the shadow Minister for Fair Trading. The Minister is no stranger to my electorate, having visited numerous times. He shares my concern that residents and operators deserve the very best governance we can give them. The bill includes significant changes that will improve the governance of residential communities in New South Wales. This is something that is long overdue and has been a key priority for the Minister and the Government since our election.

In particular, the rebranding of residential parks to residential communities resonates with me. In my electorate we have more than 20 land lease community properties that house more than 2,300 people, and most of those properties are located on the Tomaree Peninsula. Having visited many of those residential communities over the years, the one thing that stands out is the strong sense of community. It seems only appropriate that the name better reflects this. In considering the bill, it was apparent that this notion of community was at the forefront of the reform process. I am pleased to support a bill that is genuine in taking into account the needs of home owners and operators. The key reform that best represents that is the new community-based system for challenging site fee increases.

Where there is a dispute relating to a notice to increase site fees, the community will be able to submit a joint application. For that to occur, agreement must be received within 30 days by at least 25 per cent of the affected home owners. I am aware that there will be some circumstances in which individual home owners will be reasonably satisfied to accept the disputed site fee increase. In those cases, the home owners will be able to opt out of the community process if they wish. Before an application can be made to the tribunal, both parties are required to attend mediation in an attempt to resolve the dispute in the early stages. To make things easier, a nominated representative can advocate on behalf of the home owners. I am sure there are a number of home owners across New South Wales who are relieved by the inclusion of this provision.

The community-based approach is designed to minimise the cost and administrative burden to all parties associated with disputes over increases in site fees. To further assist home owners, the bill will limit site fee increases to no more than once in any 12-month period. Operators will be required to give notice of the increase to all residents at the same time and include an explanation for the increase. Failure to do so may void the increase. This means that operators and home owners can better plan their finances based on the new process. Being part of a residential community sometimes has its challenges. In an attempt to deal with these challenges head on, interested home owners can make a resolution to establish a residents committee. To do so, agreement is required from a majority of home owners who are in attendance at the time of the vote. One of the primary functions of the residents committee is to represent the interests of the residents and consult with the operator or home owners when necessary.

To ensure a certain level of independence, the bill is clear that the operator is prohibited from interfering in the establishment and operation of the committee and a close associate of the operator cannot be a

member of the committee, even if that associate is a resident of the community. We want to make sure that residents have a safe space where they are free to discuss the issues that are important to them. It is important that residents are comfortable in their own community and that efforts are made to promote harmonious living. An issue that has been a source of intense scrutiny has been the introduction of equity sharing arrangements to the sector. It can be said that the discourse surrounding this issue has been the opposite of harmonious. The Minister has made the decision to revisit this concept and has made some good refinements based on feedback from the community.

The bill provides more flexibility and choice to all parties and better distinguishes between the differing circumstances in which such arrangements may be offered. For example, when a home is sold by one home owner to another, the operator must offer the incoming home owner the option of a rent-only site agreement, with no sharing terms. Operators also can offer an agreement with a sharing arrangement, including whatever incentives they choose. However, it is entirely up to purchasers to decide which agreement they sign. To assist home owners in making an informed decision, a disclosure statement must be provided. Operators will be required to give a prescribed disclosure statement at least 14 days before entering into an agreement. The disclosure statement will include worked examples of any equity sharing arrangement being proposed. This will ensure that home owners choose the option which best suits their circumstances.

Having discussed this bill with my constituents, I am confident that these changes resolve their concerns. As a whole, the bill provides for laws that will support the sector now and for years to come. I look forward to seeing the laws in action and I urge all members to support this important piece of legislation. I commend the bill to the House.

Mr CHRIS SPENCE (The Entrance) [11.10 p.m.]: I speak in support of the Residential (Land Lease) Communities Bill 2013. In recent times, residential communities have reaffirmed their place in the accommodation sphere. Residential communities are home to more than 30,000 home owners in New South Wales, with nearly 5,000 of them in Wyong shire on the Central Coast. As such, the Government has taken the time to put together legislation that better suits the landscape of residential communities. Many years ago, these communities were considered to be a short-term source of accommodation. Today that is no longer the case. In particular, residential communities are a viable alternative for our ageing population. Therefore, we want to make sure adequate protections are in place for all parties involved. This bill provides for just that.

As an example, the bill will require new operators to undertake mandatory education within 30 days of becoming an operator. Failure to do so could result in a maximum penalty of 50 penalty units. It is important to ensure that new entrants to the sector have access to a forum where the intricacies of operating a residential community are explained. Residential communities have a long history and a new operator can only benefit from getting a better understanding of this. The wealth of experience that many existing operators possess is a result of many years working on the ground. Unfortunately, new operators have a steep learning curve in this respect.

The education briefing intends to help these operators by being a useful resource in the day-to-day operation of a residential community; essentially, a "one-stop shop" of information. The education briefing will be developed in consultation with the industry, government agencies and resident representatives. It will be a robust briefing covering a number of areas including the legislation and the rules of conduct, as well as the skills required for the role. I am sure there will be a sigh of relief from those in the sector, as one of the reasons disputes escalate is as a result of simple misunderstanding or miscommunication. I am also pleased to see that the Commissioner for Fair Trading will be able to order existing operators to undertake the education briefing if it is considered necessary.

The development of the briefing will be done in a manner that will be accessible and not overly onerous. We are conscious that these communities are sparsely located across New South Wales, with 96 per cent located in regional and rural areas, including seven in my electorate of The Entrance and 12 in the electorate of Wyong. Even though it is not required by law, I know that some existing operators and home owners have expressed an interest in gaining access to the education briefing. They will be pleased to know that the briefing will be made publicly available once it has been finalised. Home owners will also be pleased to know that a number of improvements have been made when it comes to the sale of their homes.

The bill clearly states that a home owner has the right to sell their home on the land on which it stands. Unfortunately, this has been a source of disputes for some time. Further, the bill prohibits operators from interfering with the right of a home owner to sell their home. This includes possible penalties if an operator

makes misleading statements to prospective buyers. While this strengthens the rights of home owners, it does not give them free rein in the sales process. A home owner is now required to provide notice to the operator of their intention to sell and must refer prospective home owners to the operator for the purposes of entering into a site agreement. In my view, this does not seem overly onerous for either party. If anything, the new process encourages communication between the three parties. After all, the operator has to think about what is best for the community.

Speaking of community, I have had a number of discussions with home owners concerned about the possible introduction of children to the community. As mentioned previously, residential communities are proving to be a popular alternative to retirement villages. Some home owners have deliberately entered a community restricted to those over the age of 55. They rightly became concerned when the draft consultation bill included a provision giving children under 18 years of home owners the automatic right of occupation. There were fears that introducing children into an over-55s community would jeopardise the peaceful enjoyment of the existing home owners. While some children are generally well behaved, I sympathise with these home owners. Unsurprisingly, the Minister has ensured that this feedback is incorporated in the bill. The bill in its current form has removed this provision. An operator will be able to refuse a request for additional occupants where an occupant does not meet the age restrictions of that community. For that I thank the Minister.

I must also thank him for considering the long-term needs of some of the home owners by including a specific exclusion to this provision for carers and partners. The last thing we want is a situation where a carer cannot occupy a site simply because they do not meet the age criteria. The bill proves that home owners and operators have been heard throughout the reform process. The Minister has worked tirelessly over the past couple of years to produce a bill that appropriately balances the rights and needs of home owners and operators, and this will futureproof the sector for many years to come. For that the Minister must be commended. I am proud to support this bill and I urge all members to support this important piece of legislation. I commend the bill to the House.

Mr JAI ROWELL (Wollondilly) [11.14 p.m.]: The Residential (Land Lease) Communities Bill 2013 seeks to modernise and positively reform the residential parks laws following the review of the Residential Parks Act 1998 which found the law to be cumbersome, confusing and conflicting for residents and operators. This is an issue the Liberal-Nationals Government has been vocal on, even when in opposition. Once we formed government in early 2011, a comprehensive review was undertaken looking at a number of issues, including but not limited to better education for new park operators, improving the process for resolving excessive rent increases, and ways of licensing residential park operators.

The review and the discussion paper went on public consultation in late 2011 and more than 2,000 comments and submissions were received following an exposure draft bill. I will not go through all the details of the bill, because speakers before me have done so, but I will say that aspects of this bill are designed to improve important functions of the law. Many in this place have firsthand experience of the areas spoken about in this debate. This bill will impact positively on the livelihood of local communities across Wollondilly and the State. I commend the hardworking Minister on his fantastic work and I commend the bill to the House.

Mr ANTHONY ROBERTS (Lane Cove—Minister for Fair Trading) [11.16 p.m.], in reply: As members have heard, the Residential (Land Lease) Communities Bill 2013 fulfils the Liberals and Nationals election commitment to improve the governance of residential parks in the great State of New South Wales. The bill repeals and replaces the Residential Parks Act 1998 with a totally rewritten, simplified, plain English law that reflects the culmination of more than two years of consultation with residents, resident associations and operators.

Once again I acknowledge the hard work of my colleague the member for Albury, who was instrumental in shaping this reform package while in opposition and to whom we owe a great deal for his efforts. I also thank those stakeholders who have contributed so comprehensively to this reform over the past two years. From the Affiliated Residential Parks Residents Association I thank the president, Dr Gary Martin, and members of the board who contributed to the bill, Ms Leslie Wakeling, Mr Arnis Berznieks, Mr Alan Wilkinson, Ms Marie McCormack and Mr Jock Plimer. From the Caravan and Camping Industry Association New South Wales and the Manufactured Housing Association New South Wales I thank the president, Mr Theo Whitmont; the chief executive officer, Ms Lyndel Gray; and general counsel, Mr Bob Browne. From the Parks and Village Service I thank Ms Di Evans, Ms Julie Lee and Mr Sean Ferns.

These stakeholders have been working constructively with the Government since the commencement of this important reform, ably representing their members and at all times seeking the best outcome for the

residential land lease communities sector in New South Wales. I also thank all those who made submissions throughout our reform process and whose insights and ideas helped shape the laws we see before the House today. The nearly 500 residential land lease communities are a crucial part of the housing mix in our State, primarily in regional and rural areas and especially along the coast. Their attractive and affordable lifestyle means they are the preferred choice for more than 33,000 people, many of whom are retirees seeking a change of pace in a close-knit community.

As members have heard throughout this debate, the Government's legislative proposals will reinforce this model of community living. Importantly, appropriate consumer protection safeguards in the existing Act have been kept and are being expanded. In all, this bill is a fair and balanced package of reforms that will benefit both residents and operators in this sector for many years to come. I turn now to some of the issues raised during the debate: firstly, voluntary sharing arrangements, as raised by the member for Bankstown. Proposed section 110 of the bill provides for voluntary sharing arrangements between residents and operators when both parties so choose.

This has been designed for a number of reasons. First, it provides an avenue for residents to take pressure off rising rents. Voluntary sharing arrangements provide purchasers who wish it the ability to reduce their rental obligations throughout the length of their lease, saving them money that can be put to other uses of their choice. Second, it encourages investment by operators. The better the facilities and amenities present in the community, the greater the return when a resident decides to sell their home. This means that residents can enjoy and take advantage of improvements paid for by the operator throughout the length of their lease and not have to live with crumbling facilities and outdated amenities. Third, it improves the viability of the industry as a whole so as to ensure that these communities are profitable and therefore secure in their future. Without this, we face the very real possibility of these communities being forced to close and some 33,000 residents left with no alternative but to find a new place to live.

Voluntary sharing arrangements are exactly that—voluntary. They are applicable to new residents only, unless existing residents expressly wish to enter into one whereby they have the option to do so. The bill makes clear that all prospective residents must be offered at least one lease agreement that is rent only. This means that should a prospective resident not wish to pursue a sharing arrangement they have legal protections in place to ensure that they can sign a rent-only agreement. To summarise, operators will still be required: to provide a site fee-only option; to provide a disclosure statement that details worked examples; and to adhere to rules prohibiting high-pressure tactics, harassment or unconscionable conduct. Furthermore, home owners have access to the Australian Consumer Law if there are any clauses in the agreement that they consider to be unfair.

I turn now to the issue of site fee increases, as raised by the member for Bankstown. The difficult burden of challenging excessive site fee increases under the current law is one of the major issues for home owners. The new collective approach to site fee increases will simplify the process. If an operator wants to increase the site fees by notice, they will need to give all home owners notice at the same time. This will not be able to occur more than once per year. Under the bill, the home owners can object to the increase if at least 25 per cent of them do not agree that the increase is warranted. The matter then goes to compulsory mediation. Should mediation fail, a collective application can then be made to the Consumer, Trader and Tenancy Tribunal [CTTT]. The bill has simplified the factors for the tribunal to consider in such cases, to relieve a lot of the evidentiary burden on home owners. This new collective approach will help to reduce the number of disputes over site fee increases and make them easier and quicker to resolve where they do occur.

I turn now to the matter of termination of sites and in doing so repeat my statements from my second reading speech. The termination provisions in part 11 of the bill largely reflect the status quo of the existing Act. However, there have been a number of improvements to increase the security of tenure and protection for home owners. The bill removes the principal place of residence test and clarifies that an agreement does not end, in most cases, until the completion of the sale of the home. This ensures that home owners who pass away or need to leave for some other reason do not lose the right to sell on site. The bill imposes a new obligation on operators who intend to close a community to take reasonable steps to help find another site for all displaced residents.

Compensation to residents in the event of closure or relocation has also been improved in the bill. For instance, one of the new factors for the Consumer, Trader and Tenancy Tribunal to consider in deciding how much compensation to award to the resident is the current on-site market value of the home, determined as if the termination were not to occur. The bill makes it clear that the home owner is to be compensated for both loss of residency and relocation. Whether the home owner chooses to relocate the home elsewhere will be up to them. The bill recognises that this may not be possible or desirable and that they may prefer or have no choice but to walk away from the home. Compensation is to be payable under the bill, no matter what they decide. The existing law provides compensation only if the home owner keeps the home.

I move to the matter of special levies. Under the bill the concept of a special levy can originate from either the home owners or the operator. The bill makes it a requirement for at least 75 per cent of home owners to agree with the proposal, in addition to having the consent of the operator, before a special levy can be introduced. Moreover, the bill requires any monies raised through a special levy to be held in trust until the upgrade is completed. If for any reason the work does not proceed, the monies are to be refunded. By holding such monies in trust, the Government is ensuring that residents are guaranteed to receive their money back in the event that the purpose of the levy is no longer to be followed through. This is a fair system that ensures residents are not unjustly forced to contribute monies to a levy that the majority of residents of the park do not agree with, while also providing residents with the ability to call for the raising of a special levy independently initially of the operator.

The member for Lake Macquarie spoke on the matter of community rules, something that is a key feature of residential community living. This bill requires community rules to be fair, reasonable and clearly expressed. The bill considers that a community rule is not fair and reasonable if it does not apply uniformly to all residents. The Commissioner for Fair Trading is empowered under the bill to develop and publish a standard set of model rules that can be adopted by residential communities. The bill has been drafted to provide residential communities with the flexibility to tailor their community rules to suit their circumstances.

I am conscious that each residential community is unique in its own way and therefore being prescriptive is not the answer. It can be argued that this could lead to a situation where a residential community has an unwieldy list of community rules as they are no longer limited to specific areas of focus or, alternately, that some rules may be inherently unfair to some or all home owners. The bill contains a number of mechanisms to discourage this from occurring. These include: operators are required to provide all home owners with a written notification outlining the community rules; if a resident community has been established, consultation with said committee is to occur; rules must be clear, fair and reasonable; model community rules, which some residential communities will adopt in full; and regulation-making powers to prohibit specific rules.

With respect to younger persons residing in residential parks—a matter raised by the member for Lake Macquarie—the Government initially included in the draft bill released in April 2013 a provision allowing an automatic right for spouses and children to inhabit a house in a residential community. However, throughout the consultation process it became apparent that this was decidedly unpopular and not desired by the vast majority of residents across New South Wales. As such, the provision was amended to the current proposal contained in the bill before the House, whereby residents wishing to have children or others living with them must first receive the consent of the operator, which cannot be unreasonably refused.

I thank the members representing the electorates of Bankstown, Albury, Lake Macquarie, Swansea, Port Stephens, The Entrance and Wollondilly for their contributions to this important debate. I also thank my dedicated staff at NSW Fair Trading for their tremendous effort over the past 2½ years. These reforms are the outcome of many thousands of hours of hard work and I acknowledge each and every one of my staff for their contribution. I make special mention of the following individuals from the Fair Trading policy team: the Director of Policy, Dr Rhys Bollen; the Manager of Projects, Leanne Porter; and the Principal Policy Officer, Adam Heydon. I also thank my personal staff for the work they have done to progress these reforms since we assumed office, namely, my Chief of Staff, Timothy C. James; and my advisers, Brandon Jacobs, Adrian Pryke, Tim Potter, and Alex Clark. I commend the Residential (Land Lease) Communities Bill 2013 to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Mr Anthony Roberts agreed to:

That this bill be now read a third time.

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

The House adjourned, pursuant to resolution, at 11.30 p.m. until Thursday 31 October 2013 at 10.00 a.m.