LEGISLATIVE ASSEMBLY

Wednesday 4 May 2005

———

ABSENCE OF MR SPEAKER

The Clerk announced the absence of Mr Speaker.

Mr Deputy-Speaker (The Hon. John Charles Price) took the chair at 10.00 a.m.

Mr Deputy-Speaker offered the Prayer.

AUDIT OFFICE

Report

Mr Deputy-Speaker tabled, pursuant to section 38E of the Public Finance and Audit Act 1983, the performance audit report of the Auditor-General entitled "Planning for Sydney's Water Needs", dated May 2005.

Ordered to be printed.

ENERGY ADMINISTRATION AMENDMENT (WATER AND ENERGY SAVINGS) BILL

Second Reading

Debate resumed from 6 April 2005.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [10.00 a.m.]: I lead for the Opposition in this debate on the Energy Administration Amendment (Water and Energy Savings) Bill. I indicate that because the Opposition and the community have major concerns over the full implications of the provisions, the Opposition will oppose the bill. Essentially this bill provides a form of taxation by stealth on energy and water for household consumers and businesses in New South Wales. The money levied for the energy and water savings funds proposed in the bill will increase the revenue of the State Government and is in addition to the over $1 billion that the Government currently reaps through dividends, tax equivalents and loan loadings applied to the water and energy industries in this State each year.

For example, in 2003-04, the New South Wales Government took dividends of $115 million from Sydney Water, $102.32 million from Integral Energy, and $164 million from EnergyAustralia. This Labor Government should reinvest dividends that have been taken from those utilities back into the failing infrastructure of our energy and water industries. It should use those funds to promote reductions in demand for water and energy use, instead of further taxing the people of New South Wales who are already by any measure the highest taxed people of any State in Australia. The Liberal-Nationals Coalition will not support legislation that increases the tax burden on the people and businesses of New South Wales, which will be a consequence of this bill.

An annual levy on energy and water suppliers will mean that in turn, in the suppliers' submissions to the Independent Pricing and Regulatory Tribunal [IPART], they will apply to pass on price rises to ratepayers and water consumers after the establishment of the savings funds. Thus, Sydney Water customers and electricity consumers will be hit with a stealth tax that will be a further slug on the taxpayers of New South Wales, including taxpayers in country areas of New South Wales that are in the fifth year of a drought and where income levels are substantially reduced while debt level substantially increases, particularly among farmers. The annual levy will also be an imposition on public housing tenants. As recently as last week the Government announced that public housing tenants would be required to pay their water bills on a user pays basis. Effectively this bill will result in a double slug to public housing tenants.

The $30 million levy that Sydney Water will be required to pay each year will represent approximately 2.2 per cent of its total revenue, based on 2004-05 forecasts of revenue. Why does the Government not use the

$150 million it took in dividends last year from Sydney Water? Why does the Government need to raise more revenue—money that will ultimately come from water users of Sydney—which could potentially mean a 2.2 per cent increase in their water bills if the increased costs are passed on by IPART to water consumers and ratepayers of Sydney?

It is also forecast that when energy retailers such as EnergyAustralia, Country Energy and Integral Energy pass on their costs, the bills of electricity users will increase by approximately 0.5 per cent. Sydney Water is a huge consumer of electricity, and the added cost of electricity as a result of this legislation will be passed on to water users, and vice versa; that is, the higher costs of providing water for the electricity industry will be passed on to energy consumers. Potentially a multiplier effect will result in the electricity and water consumers in this State paying substantially more in utilities expenses.

In the last financial year, the State Government took $958.7 million from energy companies in the form of dividends and tax payments. I again pose the question: Why does this Government not reinvest some of that money in an electricity fund instead of passing charges on to ordinary electricity customers? The reason is that this Government has so badly managed its economic affairs that obviously it cannot afford to do that. With the Government's coffers emptying, more revenue is needed. Rather than hit the people of New South Wales with another unpopular tax, in addition to the unpopular property tax and the clubs tax that resulted in an enormous outcry, as well as the five new taxes that have been introduced by this Government, in this sneaky way, the Government is trying to fund a program by an added charge that will be imposed upon electricity and water consumers.

Yesterday on radio station 2GB the Minister for Energy and Utilities admitted that some of the money from the water savings fund will go back to Sydney Water. His statement shows that the fund is primarily designed to raise more money from the people of New South Wales. Why else would the Minister bill Sydney Water an annual levy for the water savings fund, consequently causing Sydney Water to increase its prices, only to give the money back to the Labor Government in the form of higher dividends?

This Government is presiding over a spiralling system of stealth taxes that are being imposed upon New South Wales ratepayers. The Minister claims that the money that will be given back to Sydney Water possibly will assist in funding the rainwater tank rebate and fridge magnets for the Every Drop Counts campaign in Sydney. However, there is still no indication of a water savings plan for areas outside the Sydney Basin. The Minister will control the funds. The scheme appears to lack public accountability and/or transparency of the contestable process of applying for money from the savings funds. I am sure the Minister claims that the scheme will be up front and will operate in accordance with the standard requirements, but he may not be the next Minister for Energy and Utilities, and frankly—

Mr Frank Sartor: I am frank.

Mr ANDREW STONER: I know you are Frank, but you may not be the next Minister for Energy and Utilities. The Minister asks the Opposition and the people of New South Wales to take the Government on trust in relation to this bill. I am sure that this is not what the community wants. Water savings funds must be administered in accordance with standards of full transparency and accountability to ensure that funds contributed by taxpayers in the form of increased charges for electricity and water bills are used not only for the purpose originally intended but also that applicants seeking access to the funds will do so only in accordance with the required standards of accountability. The question is whether the savings funds will finish up like the Government's waste levy, which resulted in $278 million of the $432 million raised during 2000-01 being returned to Treasury instead of being applied to the programs for which they were intended. The Local Government Association and the Shires Association of New South Wales are concerned about this, as is the Opposition.

One of the purposes of the bill is to force large water and energy users to develop savings action plans to encourage better demand management of water and energy. That is a worthwhile objective. The energy and water users will be nominated by the Minister, which means that the enforcement of demand management potentially could become a political process with power and discretion being with the Minister. A business or industry that is out of favour with the Government or that is subject to political pressure, as some industries are from time to time by groups such as the Greens, could be penalised by this process, which could detract from its competitiveness. Compliance costs of investigating and developing savings action plans are potentially huge.

If businesses are unable to identify commensurate savings they will suffer the costs of preparing forced savings action plans. Business groups are concerned that this may mean even more regulation for the already

overregulated business sector. Questions also need to be raised about some industries that cannot reduce their water or energy consumption yet will still have to develop a plan that justifies why they cannot make savings. For instance, a drink manufacturer that uses water as part of its products may have higher sales and therefore higher demand for water.

Mr Frank Sartor: That will be taken into account. If it is feedstock for the business it will be taken into account.

Mr ANDREW STONER: I am pleased to hear the Minister's response. We appreciate the Minister's response on every one of these concerns. Environmental and consumer groups have also requested that the operation of the funds not been made political with the ultimate control of approval of a plan residing in the Minister. The Minister can identify and request the levels of consumption of any water or energy users and label them a designated user under the bill and thus force upon them the provision of a savings action plan. Again, we need some form of accountability and transparency in relation to these provisions. These groups have also requested that there be transparency in the awarding of grants from the funds. The Government has not yet provided to the public the guidelines for reductions that designated users are expected to follow. The Government is asking us to take it on trust and has said that standards will be set down in regulations later. I put these concerns on the record so that these issues may be addressed in subsequent regulations.

Businesses and industries are already suffering under a huge amount of red tape and regulation. Compliance with the compulsory development of savings plans has the potential to force even more business and industries to relocate interstate, especially in border areas such as the Tweed, around the Australian Capital Territory and close to Victoria. Because of uncompetitive business conditions in New South Wales many industries have relocated. A major employer in my electorate, Multinail Pty Ltd, recently relocated to Brisbane. One of the main purposes of the savings funds according to the Government is to help promote demand management policies, which will then allegedly take the pressure off the supply failings of our dilapidated current infrastructure. Again, that is a worthwhile objective.

While demand management is important to ensure more efficient use of water and energy, it could be regarded as a bandaid fix for the failings of the State's water and energy infrastructure. Without a substantial investment in infrastructure the bill on its own will do nothing other than to possibly extend the time until power and water shortages become a huge issue. Suppliers of water and energy, having been hit with this extra levy, will receive no capital benefit. Thus the rebuilding of their infrastructure will have to come from their own resources, which will be somewhat reduced as a result of this bill. Water and electricity demand have the potential to become even more serious as a result of the bill, unless the Government invests substantially.

An initiative that encourages demand management in water and energy does not attract argument in principle—environmental and consumer groups and many business groups are interested in demand management—however, these groups have asked for more details on how the money in the funds will be used. They want it to be used sensibly and not wasted on further bureaucracy or consultant reports as we have seen on so many occasions. The requirement to draft water or energy savings action plans will mean that large users of water and energy, in particular business and industry, will incur costs in developing demand management procedures. At this point it is hard to tell whether potential water or energy savings will result in a net saving to the businesses and agencies forced to develop the savings action plans.

National energy regulation is relevant to the bill. States other than South Australia are yet to pass legislation setting up the Australian Electricity Market Commission [AEMC] to regulate the national electricity market. Under the legislation each State is expected to contribute a certain amount to fund the AEMC. The New South Wales Government has stated that it is using the establishment of this fund to levy the energy suppliers of New South Wales to help fund the New South Wales Government's contribution to the AEMC. This is something that the State Government should be funding out of consolidated revenue. It should not further tax the people of New South Wales to prop up its books. Business users of electricity may face duplication in dealing with the State Government's requirements under the bill and the Commonwealth Energy Efficiency Opportunity Assessments Program. This has not been addressed in the context of the bill. The Minister may wish to comment upon this in his reply.

The Local Government Association and the Shires Association of New South Wales have suggested substantial amendments to guarantee that money raised from local areas goes back into those areas. It is currently proposed that only Sydney Water will contribute to the savings funds. Therefore only water savings from the Sydney area will be eligible to receive money from the savings funds. The Nationals are waiting for a

substantial plan or policy to help country New South Wales deal with the dire state of its water supply. It is of concern that the capacity of Warragamba Dam is around 40 per cent, and we support means to control or manage water demand and the introduction of efficiencies in the use of water in the Sydney area. However, many country areas have significantly less in their water supplies. For example, Goulburn has only six weeks of water left. Wyangala Dam is at about 9 per cent capacity. Lake Cargelligo has no water left at all.

Mr Frank Sartor: There is some water. I went there a couple of weeks ago.

Mr ANDREW STONER: I was told that the level was minus 3 per cent.

Mr Frank Sartor: No, there is some water.

Mr ANDREW STONER: I have seen dead fish on the mud at Lake Cargelligo, and we can argue about that later. I have been informed that Copeton Dam is at 20 per cent capacity at the moment. The point is, whether it is 40 per cent, 15 per cent or 10 per cent, we have serious water issues in the State. This bill allows for the extension of the Water Savings Fund to other areas. I imagine it is to be funded through local water authorities and State Water, which is now a State-owned corporation. Should that extension take place, I would hope it would be in conjunction with a substantial plan for the water supply to country New South Wales as well and a return to full levels of funding for the Country Towns Water Supply and Sewerage Program, which the Government has substantially cut over a number of years.

The first four months of this year were among the driest and hottest on record. The State has been plunged deeper into drought with 90 per cent of the State drought declared. As water supply has become even more crucial it is a little disappointing that again a bill deals with the Sydney Water area only, which is relatively well off compared to the rest of the State. The Opposition opposes the bill and will not stand by while the Government tries to slug the people of New South Wales with what is effectively another tax by stealth in addition to their power and water bills to fund another Government plan. The Government has stripped dividends from energy and water utilities at record levels.

Mr Frank Sartor: The National Party introduced dividends.

Mr ANDREW STONER: The Minister has taken that to a new level, with enormous sums of money flowing out of those agencies. In turn, that has forced up water and power bills issued by those agencies. The people of the State are already effectively taxed enough through their water and power bills, and in addition dividends from those agencies go to the State Government. The people are subsidising the Government through their energy and water bills. Through the Energy Administration Amendment (Water and Energy Savings) Bill the Government is proposing to take that subsidising even further. If the Government proposes to implement water savings funds and energy savings funds using some of the money it already has from dividends, it will not get any opposition from the Coalition. That proposal would be supported. But if the Government proposes to tax the people even more by raising their water bills and energy bills, the Coalition will oppose that proposal.

Ms VIRGINIA JUDGE (Strathfield) [10.22 a.m.]: I support the Energy Administration Amendment (Water and Energy Savings) Bill. I commend the Minister and his hardworking staff on their efforts, thoughts and efficiency with which the bill has been brought to the House. That efficiency is indicative of a government that has ideas and plans that will place the State on the front foot in initiatives to protect our most precious resources, water and energy, which in turn will protect the planet. This Government has a strong record on reforming the electricity system, lowering electricity prices and greatly improving its performance. Electricity prices have fallen in real terms, thanks to those reforms, and prices in New South Wales are among the lowest in the world for both residential and industrial customers. I am lead to believe that electricity prices in the capital cities of all the States in this great nation are higher than those in Sydney; that is of great benefit to our hardworking families, and every cent of their pay packets counts.

More than $4 billion has been spent in the past five years on the New South Wales distribution and transmission networks. To maintain that high reliability and accommodate for growth, the Government has boosted capital expenditure on the electricity network by 50 per cent over the next five years; indeed, that makes a total of $6.2 billion on the distribution and transmission networks, on that important infrastructure. The Government's program to drive efficiency gains in the generation, distribution and retailing of electricity through national electricity market reform has delivered $2.28 billion in real savings to New South Wales energy customers since 1995.

Mr Anthony Roberts: Why don't you build another power station?

Ms VIRGINIA JUDGE: Members opposite do not want to listen to the truth, because they know that they could not have one iota of this sort of initiative. What have those opposite ever delivered to the State? This bill will implement another major initiative by the Government that will change the way energy services are delivered for New South Wales consumers. It will deliver efficiency savings to customers by assisting individual customers who choose to make energy savings in their own home or business. The increasing consumption of electricity in New South Wales is, of course, a reflection of our successful economy. New South Wales is the power engine, a leader in the economy. However, a significant and rising proportion of electricity supply infrastructure is used only to satisfy peak demand for a few hours each year. In New South Wales 10 per cent of generation and network capacity is used for less than 1 per cent of the year. Assets worth more than $1 billion are used for less than one hundred hours per year.

Recognising the need to make more efficient use of our investment in electricity infrastructure, the Premier requested the Independent Pricing and Regulatory Tribunal to undertake an inquiry into the role of demand management in the provision of energy services. The tribunal reported that, "there are substantial cost-effective opportunities to use demand management in New South Wales that are not being pursued." I hope the Opposition is listening. The tribunal's primary recommendation was that the Government should establish a fund to implement energy efficiency programs, assist smaller-scale energy efficiency programs, encourage energy efficiency initiatives with a wide range of partners, implement end-user fuel switching programs, and facilitate joint programs for energy and water.

Following this report, the Premier established a task force to investigate and report on the establishment of such a fund. The task force conducted stakeholder consultation workshops that gave strong support for the concept of such a fund for its economic, environmental and flow-on social benefits. The work of that task force and submissions received on the Energy Directions Green Paper early this year have formed the basis for this bill to establish an Energy Savings Fund. The establishment of an Energy Savings Fund through this bill will put New South Wales, once again, in the lead in the smarter use of energy. By improving the efficiency with which we use electricity, we can address the significant environmental impacts of increased electricity use and also the additional costs on customers from increased expenditure on networks and generation. Electricity generation represents 43 per cent of total greenhouse gas emissions in New South Wales.

Increasing energy consumption leads to growth in greenhouse gas emissions, localised atmospheric pollutants such as nitrous oxide and sulphur dioxide and demands on water resources for power station cooling. Rising greenhouse gas emissions contribute to the threat of global climate change. Of course, we have all read recently about the threat to the Ross Ice Shelf in the Antarctic. Temperatures remain high in this State and no-one needs to be reminded of the shocking drought it is experiencing. Honourable members would be aware that last April was the hottest recorded in 40 years. The facts speak for themselves. Our environment is our most precious resource, and it is time to do something about protecting it. This State, under the Premier's great leadership, also set up the Greenhouse Office. I am sure it is doing fantastic work.

Climate modelling by the CSIRO paints a picture of the future for New South Wales of more extreme weather events with high temperatures, lower rainfall, more storms, and rising sea levels. Of course, we all need to do our bit to make sure we slow down this process so that our children and our grandchildren indeed have a future. The New South Wales Labor Government has been a leader in Australia and internationally in meeting the challenge of climate change. Unlike the Howard Commonwealth Government, we have not stuck our heads in the sand and ignored the problem; we have actually gone out and done something about it. We cannot afford to have New South Wales left behind, and we will not allow that to happen.

We need to begin to prepare for the future and participate in the growing global market in emissions trading that offers tangible benefits for the New South Wales economy. The New South Wales Government has led the nation in moving to curb greenhouse emissions by being the only State in Australia to have placed mandatory greenhouse reduction requirements on its electricity companies. This already has led to the abatement of 10 million tonnes of carbon dioxide from a variety of actions taken by industry, utilities and farmers. By 2012 the New South Wales Greenhouse Gas Abatement Scheme will have delivered over 120 million tonnes of carbon dioxide abatement. That is great, is it not? The Premier has taken the lead on pulling the States together to act since, of course, Canberra has failed to do so. Well, that is not surprising, is it? What is new!

On 30 March 2005 the State Premiers and Chief Ministers released a joint communiqué that will form the agreed basis for developing Australia's first emissions trading scheme—and about time, too! This will be a market-based scheme that will give industry the flexibility to find the least expensive way of achieving

greenhouse gas reductions. It will drive change in the supply and use of energy, encourage low emission technologies, and lead to long-term investment in greenhouse gas reductions. The impact of energy supply and use is pervasive through our economy, and the pattern of supply and use has been built up over a long period. It takes a multifaceted approach to adapt those patterns of supply and use to change conditions. That is why our Government is acting on many fronts in partnership, and why New South Wales is tackling some of the barriers to improved energy efficiency with the energy savings fund.

The promotion of energy-saving measures will reduce greenhouse gas emissions in the electricity sector, reduce bills paid by electricity customers, and reduce peak loads to get the greatest benefit from the network. Examples of energy-saving measures include improving the efficiency of existing buildings, appliances and industrial processes; moving the operation of appliances and industrial processes to times of cheaper electricity; and making use of cogeneration, standby generators, solar technology and other small-scale renewable generations.

Of course, everyone can do his or her bit. Some time ago, when I was Mayor of Strathfield, we held one of the first solar forums. As a result, I issued a mayoral minute requiring that in future all medium-density development, including townhouses and so forth, would have to use renewable energy to light all common areas. It was only a small step, just as Strathfield was the first council area in the nation to make rainwater tanks mandatory for all major renovations and new homes. As I said, everyone can do his or her bit and, of course, the Carr Government is taking care of the bigger picture.

Other advanced economies—such as the United Kingdom, the United States of America, the Netherlands, Denmark and Belgium—have all recognised energy-saving measures as a better way to balance investments in infrastructure, economic development and environmental protection. They also recognise the wider benefit to the community and economy from funding such programs. However, without co-ordinated government action there is unlikely to be a meaningful and timely increase in the efficient use of energy in New South Wales.

The fund established by the bill will help households and businesses make smarter use of electricity. The purposes of the Energy Savings Fund are to provide funding, primarily on a contestable basis; to encourage energy savings; to address peak demand for energy; to stimulate investment in innovative saving measures; to increase public awareness and acceptance of the importance of energy-saving measures; to achieve cost-effective energy-saving measures that reduce greenhouse emissions arising from the use of energy; and to provide for contributions by the State for the purpose of national energy regulation.

The fund is not a substitute for increasing the State's generation capacity to meet future demand. Investments in power supply will be dealt with in the Government's energy plan and white paper. To ensure that we get practical, pragmatic outcomes and efficient savings, the Minister for Energy and Utilities will establish an advisory committee for the Energy Savings Fund, which will include representatives of electricity customers, electricity businesses, the energy services industry, environment groups, and government agencies.

The council will advise the Minister and his department, the Department of Energy, Utilities and Sustainability, on priority areas for the fund. It will review those priorities—to take account of changing conditions and the success of various energy-saving projects—and monitor, review and report to the Minister on the overall performance of the fund against the established objectives. Regular public calls for expressions of interest will be made for the Energy Savings Fund to make sure that we are supporting the best ideas from the New South Wales public and its businesses. Selection criteria for funding support will focus on ensuring that the greatest savings are made, from which we will all benefit. Funding will be made available predominately through a contestable pool to promote value for money.

The second initiative under this bill relates to requiring certain categories of high energy users to prepare savings action plans that set out measures to save energy. The Minister will specify the designated categories of energy users through savings orders published in the *Government Gazette*. For energy, the designated users include the 200 highest business energy users, local councils, and State Government agencies. Draft savings action plans prepared by these users are to include a description of the designated user's current energy usage; include a list of individual energy savings measures prioritised in terms of energy saved, cost effectiveness and potential benefits; identify the energy savings measures included on that list that the designated energy user proposes to implement in the four-year period following approval of the action plan—including initial set-up costs and annual costs for each measure, and time frames for implementation; and any other matter prescribed by a savings order.

The Minister for Energy and Utilities will issue guidelines, which must be complied with, concerning the preparation of such energy savings action plans. These guidelines are being prepared by the Department of Energy, Utilities and Sustainability in consultation with businesses and local Government. Once a savings action plan is approved by the Minister, it has effect for four years. A plan can be amended or replaced if the designated user wishes to prepare a new one. So there is that built-in flexibility. I have spoken today about the energy initiatives to be implemented through the bill. Parallel initiatives are also contained in the bill for sustainable water use in Sydney, and perhaps some other speakers will address that aspect. In conclusion, the bill will implement government initiatives to secure sustainable and affordable water and energy for this great State of ours. The legislation delivers ongoing benefits to water and energy consumers, and to every single man, woman and child in this State. I commend the bill to the House.

Mr ANTHONY ROBERTS (Lane Cove) [10.37 a.m.]: This bill is yet another example from this Government of a grubby, secret, underhanded, sly, indirect tax on the good people of New South Wales. The bill highlights yet again this Government's incompetence when it comes to running the State, its finances, and its infrastructure. After seemingly bleeding dry the taxpayers of this great State, the Government has taken to looking in every nook and cranny for an extra dollar. I am reminded of Winnie The Pooh, the cunning fat bear, running around hatching schemes and sticking his fingers into every pot in a never-ending search for honey. That is what this Government is doing: always hatching new schemes.

One has to give credit to the Government. Just when we had come to believe there was no new tax to be thought of, this Government, with its incredible level of imagination, has devised a new indirect tax to burden the people of New South Wales. Whilst the idea of a savings fund seems to appeal to some, the proposal that an extra levy should be placed on the water and energy industries is outrageous. The Government is already reaping hundreds of millions of dollars from these industries through dividends, tax equivalents and loan loading. I congratulate the shadow Minister for Energy and Utilities, the honourable Andrew Stoner, who is leading the charge on this issue. He has shown the foresight and vision that is required in this portfolio. The shadow Minister said:

> ... the NSW Government took $115 million from Sydney Water, $102.32 million from Integral Energy, $164 million from EnergyAustralia, as some examples.

It is completely and utterly ridiculous to further slug these industries with a levy—which I add would have no benefit for them but, rather, would go into slush funds for environmental groups. What would happen if this bill were passed? The simple answer is that, yet again, consumers would be most likely to foot the bill as suppliers would have a strong claim for price rises in their submission to the Independent Pricing and Regulatory Tribunal [IPART]. This is a stealth tax, so to speak, under this Government, one that the people of New South Wales can ill afford, especially considering all the taxes and the already high price for energy they are paying in this State.

An example of this is my local government body, Lane Cove Council. In a recent submission to IPART, Lane Cove Council voiced its objection to the proposed 70 per cent price increase by EnergyAustralia for street lighting. If implemented, these price increases could result in cuts in lighting and other essential services, and total costs to council would rise to almost $500,000 per year. With further price rises, the results could be disastrous. So here we have insidious tax by stealth—and not just on consumers. It is disgraceful that a former Lord Mayor of Sydney has turned his back on local government in such a treacherous way. I appeal to my fellow parliamentarians on the other side of the Chamber who have come from local government to vote against this insidious tax and the continuous cost-shifting from the State Government to local government.

If the Government believes that these savings funds are necessary, a much fairer way of financing is necessary. One way of doing that would be to cut down on government waste. Only this morning I was going through the Waste O Meter put together by the Hon. Greg Pearce, a member of the Legislative Council, which makes interesting reading. If the Government managed this State well it would not need to introduce all these new taxes. I will highlight the lack of need for these taxes by pointing out the waste that has been revealed since March 2003.

The Liverpool-Parramatta bus transitway blew out by $137 million; the north-west bus transitway blew out by $113 million; the Millennium train stages one and two blew out by $114 million; the Millennium train maintenance to 31 May 2004 blew out by $8.4 million; the cost to the Government of displaced public servants is $39.1 million; State Debt Recovery Office mismanagement cost statute barred fines of $41 million; the Hunter and outer suburban train carriages blew out by $78 million; and the Treasury Managed Fund returned a negative investment of $305 million.

Mrs Karyn Paluzzano: Point of order: The House is debating the Energy Administration Amendment (Water and Energy Savings) Bill. The honourable member for Lane Cove should be brought back to the subject matter of the bill.

Mr DEPUTY-SPEAKER: Order! The honourable member for Lane Cove has been given considerable latitude in this debate. Perhaps he should now address the contents and specifics of the bill.

Mr ANTHONY ROBERTS: If we did not have this waste and mismanagement the Government would not have to introduce these new taxes. The Parramatta rail link—which is now the Chatswood-Epping rail link—blew out by $1.2 billion. Government car crashes cost $23 million and Government stress leave cost $51 million. No wonder Government members are stressed! Olympic venues maintenance is $11 million. The figures to which I am referring are all blow-outs. If we did not have these blow-outs the Government would not have to impose these insidious taxes.

The Department of Commerce online licensing project cost $17.7 million; the transport smart card integrated ticketing system blew out by $62 million; theft and arson of government schools cost $36 million; the police botched infringement management processing system cost $41 million; the Sydney Water St Mary's empty waste treatment plant blew out by $20.7 million; the Department of Health Newcastle strategy blew out by $60.7 million; the Sydney Catchment Authority general upgrades blew out by $46 million; and the Department of Community Services caseworker accommodation blew out by $26 million. Also included in this Waste O Meter is the Treasury refurbishment of the Goodsell Building, which blew out by $1.26 million. That is not a lot of money so far as the Government is concerned, but when we look at these statistics—

Mr Frank Sartor: Point of order: The honourable member has strayed beyond the subject matter of the bill. The bill is about allocating funds specifically for energy or water. It has nothing to do with general tax revenue. What the honourable member is talking about is entirely ultra vires.

Mr DEPUTY-SPEAKER: Order! The honourable member for Lane Cove will return to the leave of the bill.

Mr ANTHONY ROBERTS: The Minister fails to understand that he, like the rest of his department, is answerable to the people of New South Wales. His department comes under a general budget. I am referring to a Waste O Meter put together by the Hon. Greg Pearce, who does a fantastic job. This document reflects waste by this Government of over $5 billion. My argument is that the Government would not have to slug New South Wales consumers any more for water or electricity if we did not have this waste and mismanagement. If the Government got on with doing its job and running this State correctly it would not have to find new ways of raising revenue. Lights would not have to be burning in Macquarie Street and elsewhere late at night while departmental officers devise new ways for the Government to put its hands into the pockets of New South Wales consumers.

If the Carr Government managed this State correctly it would not have to slug consumers. The Minister would not have to find new ways to find revenue that is obviously being wasted. I am more than happy to email the Minister these pages from the Waste O Meter put together by the Hon. Greg Pearce. It makes interesting reading. He might be able to find new ways to assist his colleagues to cut back on the billions of dollars that are being wasted. I again place on record that this is not Government money; it is taxpayers' money that the good people of New South Wales pay to the State Government. It is also money that the State Government gets from the Federal Government, which it wastes.

The Government's financial mismanagement and its contempt for public and parliamentary accountability are highlighted in this bill. Also evident is its contempt for transparency in the process. Quite frankly—and this is not a pun—the amount of power that the Minister will wield is very worrying. As I read through the bill I was filled with fear about the direction that this Government is taking. As my colleagues on the other side of the Chamber would know, any good Westminster system is based on three foundations—a Legislature, a judiciary and the executive.

[*Interruption*]

It appears that quite a few people do not understand this so I will give them a quick lesson. We have a judiciary that is politicised and a Legislature that rarely meets. In fact, honourable members went home early last night because we ran out of bills to debate. Government members should be grateful that I am speaking in this debate. If I were not speaking, we would have nothing to do. I am doing them a favour.

Mrs Karyn Paluzzano: Point of order: I am grateful for many things but I am not grateful for the contribution of the honourable member for Lane Cove.

Mr DEPUTY-SPEAKER: Order! I am sure the honourable member for Lane Cove will conclude his speech shortly.

Mr ANTHONY ROBERTS: We have no legislation before the House. The Government is coming dangerously close to being run by the Executive. In any good system of government, that is incredibly dangerous and it is something of which I am fearful. All this power will be passed over to the Minister, and that is quite concerning. If the bill is passed, the Minister will require Sydney Water, EnergyAustralia, Country Energy, and Integral Energy to contribute a set amount to the relevant savings funds, with provisions for other State water agencies to provide water to the Water Fund at the Minister's discretion, bound only by regulation. The problem is that the Minister sets the regulations. The biggest waster of water in the metropolitan area is Sydney Water. I think the latest figure we have been given is that 10.7 per cent of water is being wasted through broken pipes, lack of maintenance, and lack of infrastructure renewal.

The Minister and his department should be held to account for that. What is even more worrying is that the funds would be dispersed without accountability by way of parliamentary oversight or oversight by an independent body but, rather, with oversight by none other than the Minister. Who guards the guards? This bill again demonstrates the Government's absolute incompetence when it comes to infrastructure, and its constant need to introduce band-aid-like solutions to each and every problem without getting to the crux of the matter and putting money back into infrastructure. The bill is yet another of the Government's poorly considered policies and dodgy band-aid solutions, which seems to be the trend with the Government. Once again I pay tribute to the Leader of The Nationals, who spoke so well on the bill. He has shown the leadership this State needs.

Mr Steven Pringle: And the member for Wakehurst.

Mr ANTHONY ROBERTS: The honourable member for Wakehurst also made a valuable contribution. Both members have shown the leadership and vision that is required to lead New South Wales out of the drought and the energy shortage. I urge members to vote against the bill. It is dangerous, and it imposes yet another tax on the already overtaxed people of New South Wales.

Mr MATT BROWN (Kiama) [10.51 a.m.]: I am pleased to support the Energy Administration Amendment (Water and Energy Savings) Bill, and I commend the Minister for bringing together these key Government initiatives to save water and energy. I listened with interest to the contribution of the honourable member for Lane Cove. At the very end of his long-winded, non-detailed contribution he referred to his leaders, the Leader of The Nationals and shadow Minister Hazzard, but he did not mention one aspect of their plan or policy. Indeed, he did not speak about this bill, or any issue related to it, until he got to the very end of his contribution. He could not identify one aspect of the Opposition's plan, policy or idea. It simply shows that when it comes to waste and mismanagement one has only to look at the Opposition benches. Indeed, if there were a Geiger counter for waste and mismanagement, when it pointed in the Opposition's direction it would whirl around so quickly the dial would spin off.

The honourable member for Lane Cove spoke about the cost of electricity in New South Wales. He said that our electricity costs are prohibitively high. Again, he cited no facts on this aspect. This is the way the Opposition operates: it simply sprouts words and tries to arouse emotions, without citing any facts. The fact of the matter is that a typical residential electricity consumer in Brisbane pays $53 a year more than a typical residential electricity consumer in this State. A typical residential electricity consumer in Perth pays an extra $174, Melbourne consumers pay an extra $205, Hobart consumers pay an extra $227, and Adelaide consumers pay an extra $535. In other words, the Opposition's argument has simply been blown out of the water with a few facts.

When we look at small business, a very important sector the Carr Labor Government is continually looking after, it is even worse. Typical small businesses in Hobart pay $632 more than their counterparts in this State, Melbourne small businesses pay an extra $1,092, Brisbane small businesses pay an extra $1,418, Adelaide small businesses pay an extra $2,625, and Perth small businesses pay a whopping $2,879 extra, or a 42.7 per cent increase on the average cost for small businesses in this State. It is important that a few facts are put on the table, to ensure that the Opposition's contribution can be clearly seen by the people of this State.

The water initiatives to be implemented through this bill are an important part of the Government's Metropolitan Water Plan, which is a strong, comprehensive, 25-year plan to secure the future water needs of the

Sydney region. The plan contains a package of new action the Government is taking to respond to the current drought, and gives certainty to our water supplies. Members opposite have not provided any sort of plan; indeed, they have no idea about Sydney's water. They continually pooh-pooh every idea and initiative the Government puts forward. The people of New South Wales are fed up with the Opposition's lack of vision. The Opposition should either engage in constructive debate on this issue or get behind the Government's plan.

Our main storages currently supply an average of 600 billion litres each year. Our consumption already exceeded this safe yield before the current drought. Sydney's population is expected to increase by one million over the next 25 years or so. The various actions in the Metropolitan Water Plan to save, substitute and supply water will ensure a sustainable balance between water supply and demand in the greater Sydney area over those 25 years. The water savings initiatives under this bill are not a substitute for augmenting supply. The Government is already working on major capital works projects to this end, as part of its contribution to the partnership with the community in conserving water.

For example, our four-year $30 billion infrastructure plan includes initiatives to deliver new supplies promptly. The Metropolitan Water Plan adopts a whole-of-government approach to securing water supplies. The projects announced under the plan to diversify the sources of Sydney's water are proceeding on time or ahead of schedule. They include the deep water project, groundwater studies, and desalination. Long-term supply initiatives include the Shoalhaven Transfer Project and various re-use projects.

The deep water project involves tapping into new water stores at the bottom of existing dams. The contract for Warragamba Dam will be let in June this year, with the works likely to be completed by August 2006, four months ahead of schedule. In May, tenders will be called for the main supply and construction contract for the Nepean and Avon rivers, with the contract due to be let in August. Works at the Nepean and Avon rivers are scheduled to be completed ahead of time, in August 2006. The amount of water to be gained from the project is estimated to be more than 30 billion litres by 2006.

Ground water studies include a $4 million project sinking trial bores into parts of catchments. Drilling is under way in the upper Nepean catchment near Kangaloon, where early results indicate the potential for significant quantities of ground water. Drilling at Kangaloon is to be completed by early June this year. If early results are confirmed, a decision to construct the bore field could be made by late this year, and the first bores could be online by late 2006. Drilling and testing is to be undertaken in another four priority areas between June and November this year. The project is on track for completion six months ahead of schedule, and is estimated to deliver up to 13 billion litres of ground water per year.

With regard to desalination, a preliminary report from international experts indicates the feasibility of turning seawater into drinking water if the drought continues. The report canvasses a range of plant sizes and locations, as well as potential greenhouse offsets. The final options report is expected to be presented to Cabinet this month. The desalination project could provide up to 182.5 billion litres of water a year by early 2008.

As I said, long-term supply initiatives include the Shoalhaven Transfer Project, which I take a particular interest in. Contrary to the honourable member for South Coast's assertion yesterday, the project does not involve building a new pipe in the Shoalhaven River. Rather, it involves building a new pipeline, in addition to the pipelines already in the system, to pump excess water from the Shoalhaven. Technical studies are under way, including survey work, and the plan for the pipeline routes is well advanced. A draft community consultation plan has been developed. I am very keen to see the plan going out to the community and for the community to have its say about the potential impacts of the plan. Some initial community consultation has already been conducted. The project, which is on track for its original completion date of 2009, is expected to deliver up to 80 billion litres per year by 2010 and 110 billion litres per year by 2020.

There has been much discussion about reuse. I am pleased that the Government has a strong and detailed plan and is implementing reuse options. We have only to look to BlueScope Steel in the Illawarra for a great example of industrial reuse. The Department of Infrastructure, Planning and Natural Resources is currently preparing the Metropolitan Water Plan for completion by the middle of this year to identify potential recycled water schemes. That plan has the potential to deliver more than 80 billion litres of water. Rouse Hill has a recycled water scheme and Liverpool Golf Club has a $1.7 million scheme to supply the course with 300,000 litres of recycled water daily from the Liverpool sewage treatment plant, substituting for 60 million litres of drinking water per year.

BlueScope Steel has a sewerage treatment plant in the final stages of commissioning and a water reclamation plant that is due to begin commissioning in May this year. A recycling plant is also due to begin

commissioning in May and full flows of 20 million litres per day are to commence in October this year. That is just a taste of some of the initiatives that this bill is canvassing. Some constructive comment from the Opposition in this very important debate would not go astray. The honourable member for Lane Cove suggested earlier that we should simply build another dam.

Mr ACTING-SPEAKER (Mr Paul Lynch): Order! Members on both sides of the House will come to order.

Mr MATT BROWN: Perhaps the honourable member for Lane Cove should listen to the honourable member for South Coast so that Opposition members will know what they are talking about. They are a dishevelled mess and have absolutely no idea what is going on. They simply arouse unnecessary emotions in the community with no recourse to facts. Opposition members are a disgrace to the standards of this House. I hope to hear a little more constructive debate from members on the other side of the House during further consideration of this bill. I commend the bill to the House and congratulate the Minister and his staff on their hard work on this legislation.

Mr MICHAEL RICHARDSON (The Hills) [11.01 a.m.]: Once again I have been encouraged to speak on legislation by the contribution of the honourable member for Strathfield. When the honourable member for Strathfield speaks on issues such as this—especially the greenhouse issue—she sounds as though she is at a religious revival meeting. But when I debated the honourable member previously she was not aware that the Australian Greenhouse Office still exists and is continuing to do great things for our environment. The honourable member for Strathfield should get her facts right before speaking with such fervour about these issues in this place.

The honourable member for Kiama spoke about the Government's "strong and detailed" plan for conserving water in this State. The honourable member attended a briefing—at which I was also present—by the Auditor-General on the Government's water plan. The Auditor-General was a little less fulsome in his praise of the Government than was the honourable member for Kiama. The Opposition has been quite critical of the Government's water plan. We do not believe it will meet the future needs of the city of Sydney, and certainly some of the key audit findings of the Auditor-General suggest that that is the case. The executive summary of the Auditor-General's report states:

> Sydney's shortage of supply is not due to any long-term lack of water in its catchments.

It goes on to say that relatively little water is drawn from the neighbouring Shoalhaven catchment, and continues:

> ... there is a degree of uncertainty about the ability to regularly pump additional water from the Shoalhaven without increasing storage capacity on the Shoalhaven.

In other words, the Auditor-General has cast significant doubt on a key plank of the Government's water plan. The executive summary states:

> … while the *Plan* is designed to increase water releases to the Upper Nepean, it delays a final decision on releases from Warragamba Dam to further improve the health of the Hawkesbury-Nepean River. Potentially this would increase the gap—

that is the gap between the sustainable yield and what has been extracted from the system—

> to a figure in excess of 300 GL of water each year.

The Opposition quizzed Mr Sendt about this issue and he said that the Government was talking about putting an extra 100 gigalitres of environmental flows down the Hawkesbury-Nepean rivers after 2015. What happens between now and then we do not know. As I said to the Auditor-General, one hopes that the rain dance of the Minister for Energy and Utilities has worked by then. I am sure that honourable members remember the wonderful Moir cartoon depicting the Minister doing a rain dance, urged on by the Premier. One hopes that by 2015 we will have had some substantial rain in Sydney's catchment areas. The Government's water plan seems to pray—no wonder the honourable member for Strathfield thinks she is at a religious revival meeting! We will all pray for rain and do a rain dance. The executive summary of the Auditor-General's report continues:

> There is considerable uncertainty associated with demand management measures that rely on consumer behaviour, and on price increases, which also depend on consumer responsiveness.

There was considerable discussion about metering multi-unit dwellers. There is clearly little incentive for a resident of a unit that is not directly metered to save water. When one resident spends half an hour in the shower why should another take only five minutes? Only this week a story in the newspaper pointed out that unit dwellers are using more water while everyone else is going dry. I know that many people in my electorate have cut their water consumption by 50 per cent, yet the burden continues to fall most unfairly on people in freestanding houses with gardens to the exclusion of many other Sydney residents. That is not just unfair but clearly unsustainable because we will not achieve the water savings we need. That is also the view of the Auditor-General, who says:

> … a large and increasing proportion of water consumers are not directly metered. Sydney Water has argued that the cost of installing individual metres in existing properties, and the associated billing costs, would be uneconomic.

But the Auditor-General also says that the Department of Infrastructure, Planning and Natural Resources, Sydney Water and related water agencies should improve the monitoring of water use in Sydney, including reviewing the socioeconomic and environmental merits of increased direct metering, given its capability to influence demand. So the Auditor-General of this State does not agree with Sydney Water or the Minister on this issue. It is no wonder the Minister needs a slush fund to deal with this matter.

Mr Frank Sartor: Go and read the Sydney Water licence.

Mr MICHAEL RICHARDSON: Perhaps the Minister should instruct Mr Sendt to read Sydney Water's licence; I am quoting the Auditor-General directly. The Opposition is very concerned about the way in which the Government is using this bill to increase water and electricity prices by stealth. Quite extraordinary dividends are being stripped from our utilities. In 2003-04 the New South Wales Government took $115 million from Sydney Water, $102.32 million from Integral Energy and $164 million from Energy Australia. They are enormous amounts, yet the Government appears to believe it is necessary to tax these utilities further and impose a new levy to provide for demand management. We on this side of the House support demand management. We believe strong environmental benefits flow from reducing unnecessary consumption of water and electricity.

We also believe that the Government should be doing a great deal more to stimulate investment in renewable electricity generation. In that regard I was interested in the answers to questions asked on notice by the Hon. Jennifer Gardiner during the budget estimates committee process. She asked for figures relating to Green Power purchases. Honourable members are aware that Green Power is a program whereby consumers can pay more for renewable electricity—electricity coming from green sources—that is not generated mainly from coal-fired power stations. One would think that a government that was allegedly so attuned to the environment and so concerned to be reducing greenhouse emissions, about which the honourable member for Strathfield spoke, would have significantly increased Green Power purchases. But nothing could be further from the truth.

According to figures provided to the budget estimates committee by David Nemtzow, the Director-General of the Department of Energy, Utilities and Sustainability, 233,390 megawatt hours of Green Power were purchased in this State in 2000-01; 213,066 megawatt hours in 2001-02; and just 153,638 megawatt hours in 20002-03, a fall of more than 30 per cent. I wonder what the honourable member for Strathfield and, more importantly, the Minister have to say about that. The number of customers has fallen from 20,263 in 2000-01 to 13,477 and the percentage of Green Power that is being bought by the State's electricity consumers has fallen from 0.66 per cent to 0.43 per cent, a fall of nearly 50 per cent. One might say that is happening around Australia and that the program is not working. But what is happening in Queensland and Victoria? As at 31 December 2003, according to the National Green Power Accreditation Program annual audit, there were 14,076 Green Power customers in New South Wales, 32,870 in Victoria and 38,423 in Queensland. That is, nearly three times as many Green Power customers in Queensland as there were in this State.

Yet this is the State that allegedly has a green Premier, the man who is driving our push to combat greenhouse gas emissions and climate change. He is a complete hypocrite. These figures demonstrate his hypocrisy to the world. Together with other members of the Opposition I support the idea of demand management for water and electricity. They are an important component of the mix and the Opposition believes that a great deal more can be done in that regard. The Energy Administration Amendment (Water and Energy Savings) Bill is not the way to achieve that. It will simply place an unreasonable demand on consumers who are already paying a substantial price for their electricity and water. The money that is being rebated to the Government by way of dividends could and should be used for demand management in both of these important areas. The Minister has not advanced any substantive arguments to support his case for levying businesses and consumers more money as a consequence of this legislation.

Mrs KARYN PALUZZANO (Penrith) [11.15 a.m.]: One of the major focuses of the Energy Administration Amendment (Water and Energy Savings) Bill is conservation initiatives, but all we hear from the other side—which has no interest in strategy, plans or savings—is tax. Up go the dollar signs when they talk about savings and tax. They do not talk about re-use, or long-term educational and sustainability strategies. They do not focus on water, water re-use and water initiatives. They do not talk about energy or energy initiatives and they certainly do not bring their local area to the table. They represent electorates in the State that have differing needs and uses, and they could talk about what they could do for them. They do not join us in asking the Federal Government to bring back the $3 billion it is taking away from GST revenue. They have the hide to talk about taxes when they could approach their conservative colleague the Federal Treasurer and say, "Give us back that $3 billion".

One of the objects of this bill is to establish a Water Savings Fund and an Energy Savings Fund to encourage high energy and water consumers to prepare water and energy savings plans. The purposes of the funds are to encourage water or energy savings and the recycling of water; to reduce the demand for water; to address peak demand for energy; to stimulate investment in innovative water-savings and energy-savings measures; to increase public awareness and acceptance of the importance of water-savings and energy-savings measures; to provide for cost-effective energy-savings measures that reduce greenhouse emissions; and to provide funding for contributions made by the State for the purposes of national energy regulation.

The object of the bill is to increase public awareness and acceptance of the importance of water-savings and energy-savings measures. In respect to energy and water, for a number of years Penrith City Council signed up to the "Every Drop Counts" program and won many awards and accolades for its environmental initiatives. The most current initiative is the Sustainability Street Program. Banool Street, South Penrith, is involved in an exercise with regard to energy emissions and energy reduction in the street. The council has long-term strategies regarding stormwater re-use and reduction and improvements to the stormwater system that runs through the local government area. About seven years ago the council signed up with Sydney Water for the Penrith sewage treatment plant to re-use water on a parkland in Andrews Road. Penrith City Council has come up with a number of initiatives, of which I am proud, to make people in Penrith aware of the importance of water and energy savings. It is those little steps that are important.

I invite the Opposition to look closely at what it is condemning and to show that in the future it will have a plan to introduce long-term sustainability. This Government has evaluated all sensible, practical options to supply, save or substitute water. One single option is not in itself significant. The "Every Drop Counts" and "Go Slow on the H_2O" programs are options that on their own are not sufficient but when combined meet those sustainability issues. The combination of those actions and plans to save and substitute water supplies will ensure a sustainable partnership with the community in the conservation of water. The Government will undertake major capital works projects. Work is already under way to tap into deeper water storages at the bottom of our dams. The Government is conducting a $4 million planning and feasibility study of the potential use of desalination technology to supplement Sydney's drinking water supply. The use of the existing system of dams around Sydney will be optimised by capturing high flows in the Shoalhaven system to increase Sydney supplies.

As with the Water Savings Fund, the Energy Savings Fund is a sensible and prudent investment to make the use of these essential services more efficient and to protect the environment. This builds on the Government's strong record on electricity. There are two focuses to this debate: water and energy savings. What is happening six months on from the initiation of the Metropolitan Water Plan? There are drought initiatives, the deep water storage initiative that I spoke about, ground water studies, desalination, and a drought management plan review. All are important, because various areas of the State have issues with deep water storage, ground water and desalination. I am very proud of the delivery of the Penrith Lakes scheme, which concerns ground water and the quality of the water.

Among the long-term strategies are the introduction of native fish stocks and aquatic plants into the water and a study of the use of freshwater mussels to achieve better water quality. The latter involves introducing mussels that inhabit the natural water system into Penrith Lakes to improve water quality. Many people suffer from a misconception that Penrith Lakes are fed by water from the Nepean River. It comes from ground water, rainwater and stormwater. In extreme flood, water will come into the Lakes from the Nepean River, but most of the water in the Lakes comes from the three sources I mentioned. I commend the Penrith Lakes Development Corporation for looking at ways of increasing water quality by natural means, such as native fish and native plants, as well as by the introduction of freshwater mussels, in this instance of the species Hydrilla depressa.

Long-term supply initiatives include, as I have mentioned, the Shoalhaven transfer project and water re-use. I have mentioned re-use initiatives in the local area of Penrith, but the initiatives are much broader. The State has many water schemes, one of which is the Rouse Hill Recycled Water Scheme. Stages one and two of that residential recycling scheme currently save 1.3 billion litres of drinking water a year, which is equivalent to 35 per cent of household consumption. Another example of water re-use is in place at the Liverpool golf course. That is a $1.7 million scheme to supply Liverpool golf course with up to 300,000 litres of recycled water daily from the Liverpool sewage treatment plant. This substitutes about 60 million litres of drinking water a year. That scheme began operating in January this year. My colleague the honourable member for Kiama mentioned the Bluescope Steel water reclamation and recycling plant, which is designed to recycle water from industry. On a recent visit, members of the Public Works Committee spoke with Wyong and Gosford council representatives. They are quite proud of a major re-use initiative involving huge roof expansions on commercial, industrial and light commercial structures along the F3 in those two council areas.

However, it is clear that we all need to embrace new ways of thinking about water use. The Metropolitan Water Plan demonstrates a fundamental shift in how water is used and its re-use as part of developing smart and innovative twenty-first century solutions. Households, which account for 70 per cent of Sydney's water consumption, have saved close to 115 billion litres of water since October 2003. Now it is time for business, government and councils to do more. Water is a low-cost input for business, and new technology designed to save this precious resource can take years to pay off in the form of lower bills. As part of the Metropolitan Water Plan, the Government already has announced a Water Savings Fund to encourage businesses to invest in water-savings measures. That is what today's debate is about. Water savings achieved within the business sector and in local government will benefit the whole of Sydney.

The Water Savings Fund, to be established under this bill, will provide funding for conservation projects to encourage water savings and the recycling of water, to stimulate investment in innovative water-saving measures, and to increase public awareness and acceptance of the importance of water-saving measures. I digress to mention the Penrith Lakes Environmental Education Centre, where each year 10,000 students learn about the lakes system, water quality, what are good aquatic plants and what are bad aquatic plans, and what aquatic animals are good for water quality. Students are made aware of things in the water that are not so good for water quality. It is important for acceptance of these long-term initiatives that there be a broad strategy of education for not only those at school but within those business and government so that they will know the importance of water-savings measures. Funding will be made available predominantly through a contestable pool to encourage the best ideas, promote value for money and to give the greatest savings of water for Sydney.

The Government will continue to support water-conscious householders who want to install devices that will help them save water in their bathrooms and kitchens or install a rainwater tank. The "Go slow on the H_20" initiative is extremely popular in Penrith. I commend those in the Penrith area who have taken up that initiative, including $22 to get water-saving devices fitted to taps and showerheads. The Water Savings Fund goes hand in hand with the requirement that those who are the biggest water users prepare action plans to save water. I commend those who have worked with the Minister and the Minister's group to bring about these measures under the Energy Administration Amendment (Water and Energy Savings) Bill. I commend the bill to the House.

Mr STEVEN PRINGLE (Hawkesbury) [11.26 a.m.]: Everyone in this Chamber supports the ideas, concepts and practicalities of improving water and energy efficiency. Unfortunately the Government, yet again, does not match its words with actions. At page 4719 of today's *Questions and Answers* is perhaps a classical demonstration of that fact. Here we are talking about the notorious priority sewerage program—a great concept. But again it is taking forever to get improvements through this worthwhile initiative. For example, many villages in the Hawkesbury and surrounding areas have a desperate need for recycled sewage services. Hawkesbury City Council is keen to work with the Government to have this recycled water used on turf farms and in agriculture throughout the Hawkesbury area, a most efficient use of our precious and scarce water supplies. But what is the Government doing? Yet again, the Government defers the implementation of that program. In this instance it says that stage one of the scheme is "anticipated to be completed in 2007/08 subject to planning approvals and the availability of funds." Yet again this very sensible initiative is put on the back burner.

The Government has gone out of its way to stop other major private sector initiatives. We all know about the Services Sydney proposal, which has massive potential to save water and make significant improvements to our environment. The National Competition Council clearly said that Sydney's waste water network must be open to private competition. That was a landmark declaration that could pave the way for many

companies to recycle and sell water. But what did the Government do? Again, it actively strived to stop any private sector involvement in, or any sensible private sector initiatives regarding, recycled water. Another example was a Blue Mountains scheme under which Mount Victoria, Blackheath and a number of other areas would be linked to a recycled sewage system. Yet again, the Government is making it hard for the people involved with that scheme. In 2003 the Council of Australian Governments said:

> The importance of the role demand management can play … stands in stark contrast to the low level of activity in demand management to date. It is the Tribunal's strong view that there is significant untapped potential for efficient demand management.

What is the Government doing about cogeneration? It is not doing much, other than using stand-by generation at customer sites. What is it doing about fuel switching? It is using natural gas fuel chillers, solar heating and many other things. What about energy efficiency and advanced controls for airconditioning and lighting, and better appliances and equipment in buildings? Again the Government is not doing very much. What is it doing about load shifting, which is deferring non-essential or lower-value loads during extreme peak periods to free up much of the system? Our local paper printed an article about power problems in Colo. Those problems manifest themselves throughout my electorate of Hawkesbury from Berowra Waters through to Bilpin. We are facing another tax from the Government, which is not serious about reducing demand and improving energy and water inefficiency. Again it has used lots of words, but has taken little action. The Government's failure to do something practical is highlighted by its sewerage program and other energy efficiency goals.

Mrs SHELLEY HANCOCK (South Coast) [11.31 a.m.]: I have noted with some interest the comments from those on the other side of the House. We should be as one if we are serious about introducing environmentally sustainable options, and water-saving and efficiency plans, et cetera. Some members on the other side are deluding themselves if they believe that the Government is serious about environmentally sustainable options. Last October in this place I said that the Sydney Metropolitan Water Plan was a long-awaited strategy. Obviously, Sydney was facing a crisis then but it is facing an even worse crisis today. The city and the State had high expectations that the Premier and the Minister would introduce an innovative water plan emphasising demand management, recycling and reuse rather than supply. Part of the plan involves some innovative and longer-term solutions, but the main thrust of the Premier's solution to the problems in Sydney is to build bigger and better pipelines, especially the pipeline connected to the Shoalhaven River that will cost $680 million and will take more and more water from the Shoalhaven River and pump it to Sydney.

At that time I spoke about various comments made by constituents and experts in local government from my area who are concerned about the plan. But all the comments about the environment of the Shoalhaven River have fallen on deaf ears. It was amusing today to hear the honourable member for Kiama talk about community consultation, which he claimed is now complete. That is totally ludicrous. The plan was delivered last year and, hopefully, we are about to commence community consultation. Why has it taken the Government so long to talk to the key stakeholders and communities in Kiama and on the South Coast about their concerns relating to the plan? Today members on the other side have tried desperately to convey their concerns about the environment. Only last week Minister Sartor, backed by Minister Campbell, spoke about desalination. Finally, out of desperation, they intend to do something about a desalination plant at a cost of $20 billion.

Last Friday the Minister for the Illawarra proudly stated on ABC radio that the Sydney Metropolitan Water Plan was strong and detailed. He also spoke proudly of the Government's desalination plan. When asked about the particulars of the strong and detailed plan he admitted that he had not seen the particulars. In future the senior Minister, the Minister for Energy and Utilities, should ensure that his junior Minister, the Minister for the Illawarra, is privy to some of those details so that he is not publicly humiliated. Obviously, no details about desalination are available, but if they are. all members opposite should be aware of them. I caution the Government that desalination will produce greenhouse gas emissions. The honourable member for Strathfield has been concerned about greenhouse gas emissions and has boasted that her Government wants to do something about them. But all honourable members know that a desalination plant will massively increase greenhouse gas emissions. The Government could not be more cynical.

I call on the Government to start talking to communities in the Shoalhaven about the Sydney Metropolitan Water Plan. The complaints are not only coming from me bleating in this place. They are coming from people who continue to sign petitions and express their concern, but members on the other side, including the honourable member for Kiama, simply claim we are planning to build the Welcome Reef Dam. The Government continues to tell lies, porkies, stretch the truth—whatever one likes to call it. I have ruled out building Welcome Reef Dam. The Leader of The Nationals has ruled out building Welcome Reef Dam and yesterday the Leader of the Opposition reiterated that we will not build Welcome Reef Dam. It is a desperate attempt by the honourable member for Kiama, the honourable member for the Illawarra and other members of

the Government generally to divert attention away from the water crisis. Their only solution is to massively increase the amount of water pumped from the Shoalhaven River. That will contribute to its already degraded state, which has been caused by the amount of water currently extracted from it. It simply cannot be allowed to continue.

Members on the other side should stop telling lies to South Coast communities. The Minister for Energy and Utilities should listen to those communities. He will have one hell of a revolution on his hands from the people on the South Coast if they are not consulted and if he cannot convince them that these plans will do anything other than further degrade the Shoalhaven River. Discussions about desalination plants do nothing to reassure the people of New South Wales that the Government has any control whatsoever over the water crisis facing Sydney and the rest of New South Wales. Let us get serious about environmental sustainability and talk about some real options. Let us talk about stormwater reclamation and larger recycling plants. The Minister should go to Singapore and inspect what is happening there. Why do we continue to send potable water to industry and agriculture? Why will the Minister not take an option that is environmentally sustainable in the long term rather than the desperate measures he is adopting to try to find a solution to the current crisis? He should do something serious about protecting the environment.

Mr DARYL MAGUIRE (Wagga Wagga) [11.37 a.m.]: Much of the legislation has been dealt with by earlier speakers from both sides of the House. I refer to proposed section 34J, which provides that the Minister can, by order in the *Government Gazette,* require a State water agency to make an annual contribution for a specified financial year to the Water Savings Fund. Similarly, proposed section 34P enables the Minister to require distribution network service providers to make contributions to the Energy Savings Fund. The amount of the contribution is not to exceed any maximum set by regulation. Other contributions to the fund may come from, among other sources, appropriations or voluntary contributions of proceeds of investment money in the funds. I have read the Minister's second reading speech, as I always do, looking for the detail. Government members harp constantly about strong and detailed plans, but the detail could be lacking. The Minister stated in his second reading speech:

> The purpose of the Water Savings Fund is to provide funding for conservation projects, again largely on a contestable basis, to encourage water savings and recycling of water, to stimulate investment in innovative water-saving measures, and to increase public awareness and acceptance of the importance of water-saving measures. The Minister can require Sydney Water and the electricity distribution network service providers—EnergyAustralia, Country Energy and Integral Energy—to make annual contributions to the relevant fund by order published in the *Government Gazette*. The order will specify the contribution amount and the time or times by which it must be paid. The amount is not to exceed any maximum set by regulation.

Nowhere in the Minister's second reading speech is it stated how the contributions will be set and how the Minister will formulate the authorising regulation. The Government is good at bringing forward legislation, often amending it even before it is passed by the Parliament, and avoiding its obligation to meet standards of transparency and accountability. Although the organisations that will pay the levy are government instrumentalities, this bill will enable the Government to engage in cost shifting. The Government is shifting costs onto publicly owned organisations that will pass on the increased costs to taxpayers. As a New South Wales taxpayer, I am interested to know the extent of the impact that the levies are expected to have and how much the companies will be expected to pay. I understand that this bill applies mostly to the metropolitan area, but Country Energy is an energy supplier for regional and rural areas of New South Wales. Moreover, whatever the Minister does will ultimately have an effect on the provision of infrastructure and services throughout the whole of New South Wales.

It is fair and reasonable for the Minister to provide details of the extent of the costs that utilities will be asked to meet. Frequently the Opposition asks questions about the operation of legislation but Ministers do not answer them. I believe that the public, particularly those who are now in the gallery, are interested in what the Minister will have to say about how he will calculate the levy and who will have input into its implementation. I note that the Minister has suggested a management group should be formed to provide input on how the money should be spent to obtain the best return, but the real questions are how much the public utilities will be required to pay and how the levy will be constructed to achieve the level of funding that will be required to produce innovative solutions to save water and energy. I have received a great deal of correspondence regarding water and energy resources—vital services that everybody relies on. A letter I received from Riverina Water County Council states:

> The utilities pay for the cost of sampling and any associated on-site testing when the sample is collected.

Previously NSW Health funded testing of samples to assess whether water is potable. The Riverina Water County Council is disappointed that, in yet another example of cost shifting, the Government has removed funding for water testing. The letter goes on to state:

> Our costs for sampling amount to approximately $45,000 per year. I am not certain of the exact value of NSW Health laboratory services but believe they are at least $20,000 per year.
>
> We have been advised by NSW Health that funding is unlikely to be available from July 2005. Our concerns are that the State Government is regularly placing requirements on Water Utilities that require considerable funds in order to comply, and at the same time withdrawing what little funding they have provided in the past. It is also of concern that advice is given too late to incorporate into the coming budget—we still have not been given a figure as to how much it will cost for water quality testing.

That is yet another example of the need for transparency. Perhaps it is even an example of incompetence on the part of the department. The department should be providing information about services that are important to the people of New South Wales. To demonstrate that what I am saying is true and correct, correspondence that I have received from NSW Health on 15 March 2005 states:

> Since 2001, NSW Health has provided supplementary funding that increased capacity at the Division of Analytical Laboratories to better meet water testing recommendations of the *Australian Drinking Water Guidelines*, and extended free testing to laboratories in Albury (Greater Murray Water Testing Laboratory) and Lismore (Northern Rivers Water Testing Laboratory).
>
> The supplementary funding is unlikely to be available from July 2005—

The next part is important—

> NSW Health intends to continue providing a subsidised water testing service and is currently looking at alternative funding mechanisms to ensure that the program is sustainable in the long term.

I assume, as do other members of the Coalition, that "looking at alternative funding mechanisms" means that the Government is considering the imposition of another tax. It means that NSW Health will do exactly what the Minister for Energy and Utilities intends to do—that is, shift costs—to fund the provision of a fundamental service such as water-quality testing. New South Wales consumers may expect more cost increases to be passed on. The letter from Riverina Water County Council goes on to state:

> ... I wish to advise you that we have now received advice that we will receive funding under the Country Towns Water and Sewerage Program for a project at Rand and Walbundrie.

Everyone knows that rural New South Wales—indeed, most of New South Wales and much of Australia—is experiencing a terrible drought and that problems with the supply of water have become commonplace. The letter from Riverina Water County Council continues:

> Funding under this program has been slashed recently so that most Councils now only qualify for 20% subsidy rather than 50%...

[*Interruption*]

There has been a 30 per cent reduction in subsidies. The Minister should listen to what I am saying. Despite what he is saying, I have correspondence signed by the Minister that tells the story. The Riverina Water County Council letter goes on to state:

> When we received our advice offering [the] subsidy, we were somewhat disappointed to be told that we would only receive 11.9% subsidy ($153,867 for a $1.3 million project).

No matter what the Minister says, that is another example of cost shifting. Shortly the Minister will have an opportunity to reply to the debate, but the reality is that the funding has been reduced. The Rand and Walbundrie community has been fighting for improved water resource facilities for some time and is disappointed that funding has been reduced to 11.9 per cent. I am sure that all honourable members realise why the Riverina Water County Council has put pen to paper to express its concern. In the context of saving water, I refer to a matter that is being hotly debated in the media. The letter from the Riverina Water County Council also states:

> On another matter, not related to funding, I am quite concerned regarding the soon to be introduced BASIX requirements for regional areas. From the information available on the BASIX web site, it seems likely that new houses in Wagga Wagga are going to have at least $5000 added to their cost to supposedly save 40% water. This is $2 million per year (based on 400 new houses a year in Wagga Wagga) which is for the most part wasted due to poorly thought out BASIX requirements.
>
> The reason I say that it is wasted money is that, in Wagga Wagga, all storm water and treated sewerage is returned to the Murrumbidgee River where there is some 3000 km of river run along where there are many other users of water. In Wagga Wagga, I believe that it is garden watering that has to be targeted for water saving. I don't mean to necessarily reduce garden, much to water them more efficiently.

The reason that the BASIX test is flawed and will fail to achieve outcomes that are able to be achieved in Sydney is because all water in Wagga Wagga is recycled. Water is either used on farms or it is returned to the river. Unfortunately, because of the Government's cost shifting, even recycled water that has been supplied by councils to farms and businesses attracts charges for water-quality testing. I have received delegations from farmers who use recycled water but who are now required to pay up to $800 each for a soil-testing program to ensure that the water is of a reasonable quality and will not have a deleterious effect on the environment. I do not have a problem with the efficient use of water and adherence to the highest environmental standards, but one would think that basic tests for water and soil could be provided to encourage people to use recycled water instead of turning off its supply. Farmers and other users of recycled water are facing tough times but the Government is increasing their cost burden. That is just another example of cost shifting.

In Wagga Wagga rainfall is not high. The BASIX requirement is that a water tank be installed to collect rainwater and store it, and that the tank be connected to the house toilet system. The problem is that although water consumption in modern houses is limited because people are conscious of the need for water conservation, there is not enough rainfall to fill the tanks. People have to buy water from rivers or bores, pump it into their tanks, use it to keep the water level in the tanks reasonably high and ensure the tanks function effectively. Eventually rainwater will top up the tanks, and when that water is used, it is returned to the rivers. There is absolutely no point in that, because water is already recycled and will benefit the environment after it is used.

Wagga Wagga City Council has invested many millions of dollars to ensure that it has some of the best water-testing and purification systems available. Currently, all water is returned to the Murrumbidgee River and no credit has been given to the council for that in dollar terms. Water extracted from the salt bores is returned to the river, and it is of good quality. The figure of $5,000, which is the claimed cost of installing a rainwater tank to comply with the BASIX requirement, is unrealistically low. The actual figure is $12,000. If a rainwater tank is to be installed to supplement drinking water, most of the community would be happy to comply with the requirement. We all appreciate nice, clean, filtered rainwater but, because of the lack of rainfall, the tanks need to be very large to meet the requirements of a normal household. Water has to be purchased to fill the tanks to make sure that the household system works efficiently.

Not many people understand the fundamental BASIX requirement. I have attempted to explain it as clearly as I can. The cost of installing a tank is $12,000. In addition, there is the cost of purchasing water and pumping it. The water eventually goes to the environment. This is all pointless. The Minister Assisting the Minister for Infrastructure and Planning, the Hon. Diane Beamer, said on radio, "This is a work in progress." What will happen to the people who spent up to $12,000 after 1 July 2004, as required, if the Government changes the regulations? Come on! Why is the Government unable to get the legislation right? It should consult with industry groups and builders, who know better. The Government should not require people to spend up to $12,000 on a work in progress that it will change, either by regulation or in some other way in the future. This is Government incompetence. To claim that this is a work in progress is sheer madness, and the problem needs to be addressed.

Mr ANDREW CONSTANCE (Bega) [11.52 a.m.]: I oppose the Energy Administration Amendment (Water and Energy Savings) Bill. The Bega electorate, which I represent, includes one-third of the Shoalhaven River within its northern boundaries. Currently there is a lot of concern among Shoalhaven residents about the Government's Metropolitan Water Plan. Obviously, the bill is designed to establish a monetary savings fund, which, in essence, will fund that plan. Earlier this morning the report of the Auditor-General in relation to planning for Sydney's water needs was tabled. The report expresses a number of concerns in relation to the Metropolitan Water Plan 2004. The key audit findings in the report state:

> The *Metropolitan Water Plan 2004* plans some increased supply, but places considerable reliance on water conservation programs, higher water prices and some recycling. There is considerable uncertainty associated with demand management measures that rely on consumer behaviour, and on price increases, which also depend on consumer responsiveness …
>
> Despite the use of a more conservative approach, there remains a considerable risk that future reductions in water consumption will not materialise. Despite considerable efforts by Sydney Water, demand reduction programs have failed to meet targets set in the past. While Sydney Water now has more experience with such programs, cost and performance estimates are likely to be relatively uncertain, with limited assurance as to the extent or timing of any savings.

No doubt the slush fund to be set up by the Minister today is designed to address the concerns and findings of the Auditor-General in relation to the Metropolitan Water Plan 2004. Evidently the Government does not have a detailed and strong plan. It has a plan, cooked up by the Minister, to resolve major problems relating to the supply of water in this State. I reiterate the Opposition's position on Welcome Reef Dam. The Minister for the Illawarra, and his little sidekick, the honourable member for Kiama, have spent the last week running lines in

newspapers and amongst journalists about Welcome Reef Dam. That hypocritical, because the Government is planning to destroy the health of the Shoalhaven River to avoid a political problem in Sydney.

The honourable member for Kiama, who is busily trying to secure a deal with the honourable member for Illawarra to replace her to avoid the political repercussions of this fallout, knows full well the impact of the Government's Metropolitan Water Plan on communities throughout the South Coast. They will revolt. It is disgusting and disgraceful that the State Labor Government did not have the decency to pick up the phone and ask the director of Shoalhaven Water for his opinion on taking water directly out of the Shoalhaven River, the impact of that on the water supply within the Shoalhaven or, most importantly, its environmental impact on that incredibly significant waterway.

The reality is that the bill does nothing more than seek to address the Auditor-General's findings on concerns about the ability of the Government to ensure water savings both now and in future. The Auditor-General outlined the net effect of Sydney's Metropolitan Water Plan. The report sets out the targeted contributions of various options under the plan. The option of reducing demand will result in an approximate target contribution in 25 years time of 100 gigalitres a year; reducing leakage will result in 40 gigalitres a year; recycling will result in 80 gigalitres a year; accessing deep water—meaning the modification of dams so that water at the bottom of the dams is made available for water supply—will amount to 30 gigalitres a year; and, lo and behold, Shoalhaven transfers will result in 110 gigalitres a year.

In fact, one-third of the water to be supplied under the new Sydney water management plan comes from the Shoalhaven. That is an absolute disgrace. The Government said it would take water out of the Shoalhaven only at high flow, that being the ninety-fifth percentile. However, the Auditor-General's report makes it clear that one-third of the approximate target contribution in 25 years time will come from the Shoalhaven River. The Minister is conning the people of the South Coast, but he is happy to have the Minister for the Illawarra and his little mate spread lies to journalists, claiming that it is Opposition policy is to build Welcome Reef Dam. He is doing nothing more than deflecting attention from the truth about Sydney's water management plan and its impact on the Shoalhaven.

Communities on the South Coast know full well the games that are being played by the honourable member for Illawarra and the honourable member for Kiama. Those two members in particular will pay heavily at the ballot box in 2007 as a result of this stupidity. Consultation has not occurred, and that is ridiculous. The Minister could not even pick up the phone to speak to the director of Shoalhaven Water about this program, which speaks volumes. It is a disgrace. As I said, one-third of the approximate target contribution to Sydney's Metropolitan Water Plan in 2004 comes directly from Shoalhaven transfers. The Minister did not convey that information to the media. We all know that the concept of taking water during high flow will not occur. The Minister will not spend $680 million on a plan that will only see water taken out of a ninety-fifth percentile of the river's flow. The Minister is doing nothing more than taking a precious resource out of the Shoalhaven.

[*Interruption*]

It is in the Auditor-General's report. No doubt the Minister has not read that report or the strong and detailed results reflected in it. The Minister lacks a lot of detail and he has no plans, which is unacceptable.

Mr Frank Sartor: Point of order: The honourable member is not referring to the subject matter of the bill, which is a demand side initiative to do with energy and water saving. He is using this opportunity to postulate and tell untruths about the Shoalhaven system. That is all he has talked about. He has been given a lot of latitude. He is wasting the time of this House on something that is totally irrelevant.

Madam ACTING-SPEAKER (Ms Marie Andrews): Order! I remind the honourable member for Bega that he should confine his remarks to the bill.

Mr ANDREW CONSTANCE: The little slush fund that the bill will set up is designed to fund the Sydney plan. According to the Auditor-General, that plan has some major deficiencies that the Minister will have to explain publicly. The money levied for this fund is in addition to the hundreds of millions of dollars the Government is already taking through dividends, tax equivalents and loan loadings from water and energy industries—$115 million from Sydney Water, $102.32 million from Integral Energy and $164 million from EnergyAustralia. The Minister's water plan is dead in the water. He is now trying to put in place a slush fund to fund his plan when the Auditor-General made it very clear today that there are major concerns relating to the conservative approach that is being taken. The Auditor-General's report states clearly:

The Metropolitan Water Plan 2004:

- plans some increased supply, but places considerable reliance on water conservation programs, higher water prices and some recycling.

It goes on to state:

Despite the use of a more conservative approach there remains a considerable risk that future reductions in water consumption will not materialise.

That statement is in the Auditor-General's report. The Minister is trying to introduce a levy that is nothing more than a tax by stealth. That is a well-practised backdoor approach that the Government uses to tax the people in this State. We know the financial and budgetary difficulties in which this Government finds itself.

Mr Thomas George: It is a strong and detailed tax.

Mr ANDREW CONSTANCE: That is exactly right. It is a strong and detailed tax that will hurt people across the State. With the drought continuing to bite, some country towns in this State have only a couple of months of water supply. Projects that should have been constructed, such as the Country Towns Water Supply and Sewerage Program, have been delayed because the Government is not subsidising local council areas as it promised to do and as it is committed to doing. We have a major problem. Through this bill the Government will establish a water savings fund that is nothing more than a tax. That is unacceptable. In his performance audit report entitled "Planning for Sydney's Water Needs" the Auditor-General slammed the Metropolitan Water Plan, which does nothing for people on the South Coast and in the Shoalhaven. I think they would be horrified to learn of some of the findings in the Auditor-General's report. They would also be horrified to find that the Government is trying to introduce an indirect tax.

Debate adjourned on motion by Mr Milton Orkopoulos.

BUSINESS OF THE HOUSE

Bill: Suspension of Standing and Sessional Orders

Motion by Mr Bob Debus agreed to:

That standing and sessional orders be suspended to permit the introduction and passage through all its stages at this sitting of the Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Bill.

CRIMES (SENTENCING PROCEDURE) AMENDMENT (EXISTING LIFE SENTENCES) BILL

Bill introduced and read a first time.

Second Reading

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [12.07 p.m.]: I move:

That this bill be now read a second time.

The Government has continuously stated that it would protect the community forever from never-to-be-released prisoners. That includes the killers of Janine Balding, Anita Cobby and Virginia Morse. Under the so-called truth in sentencing legislation passed in 1989, all offenders serving indeterminate life sentences were entitled to apply to the court after eight years for the establishment of a definite sentence, with a minimum non-parole period and a maximum sentence. The Government has, in the past, amended sentencing legislation to make it perfectly clear that notwithstanding the provisions of the 1989 legislation in the case of the very small number of offenders where the courts have previously recommended that an offender should never be released, that recommendation should be enforced.

A recent decision of the Supreme Court in *R v Blessington* has held that an offender with a section 13A application that was pending as at 8 May 1997 is not subject to the present rules for redetermination. The decision also canvassed the possibility that Blessington, and by extension any others who have not yet had their application determined, might now be able to appeal the sentencing court's recommendation that they never be

released. They would therefore be excluded from the application of the present regime for redetermination of those never-to-be-released offenders. The Government believes that the intention of the legislation passed by this Parliament was clear. We have sought advice from the Solicitor General, who has advised that there is some prospect of a successful appeal in consequence of this recent decision.

But the people of New South Wales, and the Balding family in particular, deserve certainty. Both the Solicitor General and the Director of Public Prosecutions believe that the best way to deliver that certainty and remove any ambiguity created by the court case I have mentioned is through an appropriate legislative amendment. Accordingly, the object of the bill is to amend the Crimes (Sentencing Procedure) Act 1999 and the Crimes (Administration of Sentences) Act 1999 to ensure that the present regime, as it applies to non-release offenders, extends to all non-release offenders. Schedule 1 [1] ensures that the quashing of the setting aside of a never-to-be-released recommendation by an appeal court would not remove Blessington or any of the other never-to-be-released offenders from the scheme. Schedule 1 [3] ensures that Blessington is covered by the present regime applying to never-to-be-released prisoners.

This will ensure that the current regime works uniformly and that all never-to-be-released prisoners will not be eligible to have their sentence redetermined until they have served at least 30 years. If a non-parole period is fixed on a redetermination, the offender may not receive a fixed term; and when a non-parole period is fixed on a redetermination, parole cannot be granted except when the offender is in imminent danger of dying, or is incapacitated to the extent that he or she no longer has the physical ability to do harm to any person, and has demonstrated that he or she does not pose a risk to the community.

The amendments proposed in schedule 2 ensure that section 154A of the Crimes (Administration of Sentences) Act 1999 applies to a never-to-be-released offender regardless of whether the non-release recommendation has been quashed, set aside, or called into question. The amendments remove any possible ambiguity in relation to the application of the law in respect of any offender. I am confident that all members of the House will welcome the opportunity to resolve this doubt and put an end to what, as I have said, seems to be the perpetual ordeal of the Balding family. I commend the bill to the House.

Mr ANDREW TINK (Epping) [12.11 p.m.]: Every Opposition member strongly supports the Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Bill but I am concerned that this matter has had to be returned to Parliament. My concerns are heightened by the Government's track record in trying to close legal loopholes. Everyone—certainly all members in this Chamber—agrees that Blessington should never be released. That is certainly what the Premier says publicly. But it is not what the bill provides. I trust that the bill will be sufficient in practical terms to ensure that Blessington will never be released, but I have my doubts as to whether it goes far enough, or as far as it could legally.

In 1997 the then Minister for Police and Leader of the House, Mr Whelan, gave us some assurances in this regard. He addressed himself specifically to the cases of Bronson Blessington, Allan Baker, Kevin Crump, the Murphies, Travers, Murdoch and some others who, it was recommended, should never be released. At that time Mr Whelan made some very strong statements, which we took at face value. However, even then I raised some concerns that that bill might not reflect the wishes of the House. I am similarly concerned that the current bill may not reflect our wishes.

On 8 May 1997 Mr Whelan said that Blessington represented "pure evil" and deserved "never to see the exit sign at the prison gate". Mr Whelan described Blessington as an "animal" and said that the legislation's primary objective was to deny him "any hope for the future... the public expects nothing less". At the time those statements were assumed to be an assurance that the 1997 legislation would have that effect. The fact that this bill has had to be introduced indicates clearly that the 1997 attempt was unsuccessful in Blessington's case and that the Government and its legal advisers of the day were wrong. I hope they have got it right this time but I am still not certain by any means.

This matter came before Justice Dunford a few weeks ago. It appears that Blessington's situation was distinguished from the others because he had an application on foot before a key date for the operation of the existing legislation. Justice Dunford's judgment is interesting because he clearly says that the Government could have drafted the 1997 Act differently and avoided the problem we now face. In his judgment Justice Dunford said:

> The Act could have provided that such applications [as Blessington's]... be rendered null and void, or that any non-release recommendation prisoner irrespective of when his application was made should have to serve 20 years before having his application considered, but it did none of these.

In essence, Justice Dunford said that the Act could have been drafted differently and better. If Mr Whelan's 1997 legislation had done what he claimed it would do, and if the Government's advisers had anticipated the concerns that Justice Dunford expressed, we would not have experienced ongoing uncertainty in this matter and the Balding family would have been saved further distress. I have always believed that Justice Dunford was a very good lawyer and is a professional and able judge. The problems that he identified with the Act should reasonably have been anticipated by those who brought it to Parliament in 1997. It is concerning that that did not happen.

I continue to get mixed messages from the Attorney General. I listened carefully to his comments this morning. On the one hand he said that the 1997 Act was clear—which is what Mr Whelan claimed in 1997—but on the other hand he said that the Solicitor General has advised in relation to Justice Dunford's decision that there is some prospect of a successful appeal. In other words, the effect of the Act is hardly overwhelming and the corollary is that the judge has raised a significant point. That hardly suggests that it is a clear-cut case and that Justice Dunford is wrong. I sincerely hope that in preparing this bill, the widest possible advice has been obtained, from both within Government ranks and outside them, so that this time we will be able to walk away from this matter 100 per cent confident—as the public wants to be and expects us to be—that Blessington will never be released.

However, the bill is contradictory, particularly to the average person. The Attorney General used the word "forever" in his second reading speech. He said that the bill deals with the matter forever, which, as I understand it, means that Blessington will remain in gaol forever. But as far as the Government is concerned, in this bill "forever" equals 30 years. Can the Attorney General assure the House 100 per cent that 30 years equals forever? Will future Parliaments have to reconsider this matter because 30 years does not equal forever, and will cases have to be re-litigated and consequent loopholes reconsidered?

It seems to me that 30 years does not equal forever. There may be legal reasons and practical consequences as to why a time limit must be imposed. Perhaps the Attorney General will assure us that when 30 years is applied in the context of this formula—if I may put it that way—this amending bill will add to the principal legislation and make 30 years as good as forever. I hope that is what the Attorney General will tell the House, because that is what I want to hear. The Opposition does not oppose the bill; indeed, it strongly supports the need for it, as outlined by the Premier. Had the 1997 Act been properly drafted, the bill would not have been needed. I am concerned that the defective advice that was plainly the basis of the 1997 Act, at least in relation to this matter, may still have an impact on this bill. The overview of the bill states:

> (a) That the earliest time at which an existing offender can apply for a redetermination is 30 years after the original sentence commenced.

If the "average person" read that overview and then was told that the Attorney General had introduced the bill to keep Mr Blessington in gaol forever, I do not doubt for a second that they would scratch their head and say, "That does not sound like forever to me." I hope the Attorney General will indicate how, in the operation of this bill, 30 years equals forever. The Attorney General has promised forever. He tends to use different words from those of my old friend, Mr Whelan, who made promises in stronger language, but in substance his language today amounts to the same promise. When it was all said and done in 1997, Mr Whelan was talking about forever. We were promised forever but we did not get it. We have been promised forever again today but are we going to get it? Does 30 years equal forever? I want an unequivocal assurance by the Attorney General using the phrase "30 years equals forever". That would be good for the general public.

Mr DARYL MAGUIRE (Wagga Wagga) [12.21 p.m.]: Last night I telephoned Beverley Balding, who resides with Kerry Balding in the city of Wagga Wagga in my electorate, because I had heard her recent media interview. I spoke with her when the tragedy of the murder of Janine Balding was discussed in this place when I first became a member of Parliament. I told her that this bill was going to be debated and passed through all stages, and that the Opposition would not oppose it. I also told her that it would be opportune to place on record some of her thoughts that she put in correspondence to me. Beverley Balding wrote a book entitled *The Janine Balding Story, A Journey Through a Mother's Nightmare* after the loss of Janine. On page 19 she wrote:

> It was 1988, the bicentenary, supposedly a year of great celebrations for all Australians. As a family, we had several of our own celebrations to look forward to. It would be Kerry's fiftieth birthday that February. Janine and Steve had decided to get married and had set the date for 18 March the following year. In June it would be our twenty-fifth wedding anniversary and in October Janine would turn twenty-one.

She wrote further:

> As usual, she chatted away to us. Janine always found plenty to say, although we spoke to each other at least once a week by telephone. (She wasn't as good when it came to writing letters. She was always telling me, "I've got a letter half written, Mum.") She had so many plans made and had her whole life to look forward to. As well as planning the house, she and Steve had booked the Anglican church at Cronulla, where Steve's parents had been married, for their service, and we had booked the Cronulla Golf Club for their wedding reception. Janine had asked David to be their pageboy and some of Steve's relatives to be flower girls. Her friends Joanne, Michelle and Donna were going to be her bridesmaids and Janine had planned for the bridesmaids and flower girls to wear sapphire blue because she thought the colour would suit them all. She was looking forward to the October long weekend when we planned to take her out to dinner for her twenty-first birthday …

Last night Beverley wrote to me and stated:

> Thank you for your telephone call last evening, and I am very pleased to have the opportunity to have some words recorded regarding Bronson Blessington and the new Bill being debated in parliament.
>
> Although Blessington was only fourteen (one month off fifteen years of age), he was an uncontrollable child, and had been on the streets for quite some time before he and the others took part in Janine's horrific rape and murder. There is no excuse whatever for what they did, and they were all old enough to know right from wrong.
>
> Our main worry has been that if, by any chance Blessington was released, he would not keep up the "good work" of teaching scripture, he is supposedly doing in prison, and would return to crime. Justice Newman surely handed down the correct decision when he recommended **never to be released.**
>
> We will be forever grateful, should these criminals be locked up for life, as this has not given us any peace in the last sixteen and a half years. A friend who lost her husband in a road accident around the same time, recently said to us, you keep on getting slapped in the face all the time, and that's exactly how we feel.

Beverly included a copy of correspondence she sent to the Hon. Peter Breen in the other place that states:

> Dear Sir,
>
> After watching you on the television, reading articles in the newspaper, and being informed of your pursuit, to have Jamieson and Blessington released from their prison sentences for the horrific rape and murder of our beautiful innocent daughter Janine Balding I cannot begin to tell you what I think, of your idea of "reform the legal system". Do your constituents want murderers released? I am sure they did not vote for you for this reason. Have you any idea what hurt you are causing our family? It is hard enough to live without our loved one without people like you placing further stress upon us.
>
> I sat through almost every day of the court proceedings, and I am 100% sure Jamieson is the right "Shorty", and as for Blessington being so young, he took part in an adult crime, so he should serve the rest of his life in prison as recommended by Justice Newman. Should you be successful in this quest of yours, what will you do next start working on the release of Elliott also.
>
> May I remind you that Wayne Wilmot, who was in company with the above, on the night of Janine's murder, did not take long to prove to me that he was not worthy of being released. He single handedly bailed up a girl at Glenfield railway station, while he was armed with a knife, and she fortunately managed to get away from him or we would have more than likely seen a repeat of what happened to Janine. Do you want Jamieson and Blessington to add to their extensive list of crime? Leave them where they are, they chose to do what they did, Janine was only catching a train home after work.

My constituents and I, completely agree with Mrs Balding that a person of 14 years of age is old enough to know right from wrong when making a decision. One of the basic fundamentals of humans is to know right from wrong. People make choices all through their life. Every day we make choices in this place and outside it, and sometimes they are right and at other times they are wrong. If they are wrong we have to be prepared to bear the consequences of them. Children of the age of Blessington at the time of the crime are capable of knowing right from wrong. Beverley Balding is 100 per cent right when she said that Blessington knew right from wrong and that our community requires him to remain behind bars.

I hope this legislation achieves that goal because, Minister, I do not want to have to come before this Parliament at some time in the future to again deal with this matter and open the terrible wounds of the Balding family and Janine's friends. I listened to the contribution of the shadow Attorney General, who asked the Attorney General, clearly and succinctly, "Does this mean life?" I have the transcript of the sentence in the Blessington case delivered by the Supreme Court of New South Wales, Criminal Division, on 18 September 1990. In sentencing Blessington and Elliott, His Honour said:

> … I believe that I have no alternative other than to impose upon both young prisoners, even despite their age, a life sentence. So great is the nature of this case that I recommend that none of the prisoners in this matter should ever be released.

His Honour confirmed his earlier remarks and ordered that Blessington serve his sentence in a juvenile institution until he attained the age of 18 years. Life should mean life. This case involved a girl being lured and murdered in horrific circumstances that have affected our community. We have experienced many tragedies, as all cities and towns do, but this was a particularly bad case of a young girl who so tragically had her life taken. I

want to go back to the book and refer to Bev Balding's account of Janine's life and the expectations of Janine and her family. Bev Balding will never have the opportunity to nurse Janine's babies. She has to live with that fact for the rest of her life.

If Blessington has found God, that is a good thing. If Blessington is preaching to prisoners, I would encourage him to continue to do so, to continue doing good work in the prison system and encourage others to find God. But, because of what he has done, I cannot support any suggestion that he be allowed to walk the streets of Australia or anywhere else in the world. It was he who made his decision. He had the opportunity to make a choice. He made it, and now the community is insisting that he pay the price for his acts. I think that fair and reasonable. Ultimately, one answers to the community. Some of us believe that when we pass on from this world we meet our maker and face final judgment. Blessington will have to do that. But, in the meantime, he has to answer to this community.

As I have said, I understand this bill is designed to ensure that Blessington pays the price that the community demands for the Balding family and loved ones of Janine. Minister, I want you to tell me categorically that we will not be back in this place at any future time having to deal with this issue again, and having to reopen the terrible tragedy that has confronted the Balding family and our community, to pass legislation that ensures that Blessington will remain in gaol. I thank the House for this opportunity to make this small contribution. It is one that needed to be made. I hope this is the very last time the Balding family will have to deal with the consequence of the actions of these young people who so tragically and barbarically took their daughter's life.

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [12.33 p.m.], in reply: I thank honourable members for their contributions to the debate. The bill puts beyond doubt that the provisions of the Crimes (Sentencing Procedure) Act 1999, as now in force, apply to all inmates in respect of whom a judge has made a recommendation that they should never be released. That will apply regardless of when the inmates applied for sentence redetermination. On the one hand, there is absolutely no doubt that there is unanimity in this Parliament about the intention that we all have with respect to the matters that we are discussing. There is no doubt whatsoever that we feel the most acute sympathy for the Balding family who, along with a number of other families in this State, have continued to suffer the consequences of an apparently random and horrendous event in their life.

I remind the House that the scheme put in place by the Government, through several pieces of previous legislation, is as follows. Before 1989, where it had been recommended that prisoners were never to be released, that recommendation held no legal force. The earliest time after which a prisoner in that category may have a redetermination application is not eight years, as was previously the case, but 30 years after the original sentence. Upon redetermination, the Supreme Court cannot set a fixed term after which the offender would be eligible for automatic release. And, if a non-parole period is fixed on redetermination, parole cannot be granted after the expiry of that non-parole period except where the offender is in imminent danger of dying—or is incapacitated to the extent that he or she no longer has the physical ability to do harm to any person—and has demonstrated that he or she does not pose a risk to the community.

I do not think it is meaningful for the Opposition to keep asking me to use the word "forever". The exact terms of the scheme are those that apply. If, in the heat of debate as it were, the word "forever" is used sometimes and not at other times, let it be clearly understood that the legislation means what the legislation means, and I have just read out its terms. It means that it is highly unlikely that the people we are talking about will ever be released from prison. But, if they are, that will only be in the extraordinary circumscribed circumstances I have mentioned. That clearly has been the intention of the Parliament, and I must say was clearly the intention of the Parliament, as the honourable member for Epping demonstrated when he spoke of the words used by the former Minister for Police, at the time of the passing of the legislation on which Justice Dunford made his decision. There is no doubt about what the Parliament meant.

I cannot say that there is any doubt whatsoever that the relevant Crown Law officers, the relevant parliamentary draftsman and the Ministers relevant at the time also did all that they could, in good faith, to ensure that the bill meant what we thought it meant. Nevertheless, as happens in the conduct of the law from time to time, Justice Dunford effectively has held that the 1997 legislation, which increased the eligibility period, was not applicable to Blessington; that is to say, it was not applicable to an application that Blessington made in 1996. Justice Dunford so ruled because the provision in the 1997 legislation, though it contained a transitional provision, did not specifically state that earlier applications were nullities or that the 20-year period applied to any application, whenever it was made.

In other words, there was a decision made by Justice Dunford based upon very close interpretation of some words in an Act which, it may be said, he decided, honestly and with full propriety, but which were of the nature that might have been decided another way. That is why indeed we are not sure about whether an appeal based on Justice Dunford's decision would actually be successful. I cannot say, indeed no member of Parliament anywhere can ever say, that this kind of circumstance can never conceivably arise again. By its very definition, we are dealing here with interpretation of language, and I should say that essentially we are dealing with a problem that was associated with the truth in sentencing legislation of 1989. I cannot deny that that was very popular legislation at the time. I cannot deny that the then Coalition had promised to pass that legislation before it came to government, and that it had a mandate so to do.

When that legislation was passed the offenders about whom we are talking, the people who judges said should never be released, were given an explicit right to seek a minimum term after eight years and to seek ultimate release. I remind the House that Michael Yabsley's legislation gave Blessington and others the right to seek a minimum term and to seek ultimate release. Because that legislation did not bite the bullet and affirm that these particular life sentences—then indeterminate—were life-means-life sentences we have struggled from time to time to elaborate upon legislation that could deal with the matter. Consequently these elaborate legislative provisions have been drawn up and amended several times over the last few years, always with an eye to avoiding successful constitutional challenge.

I can assure the House that the Solicitor General has indicated that the amendment we propose to the legislation would be successful in avoiding a constitutional challenge. The Solicitor General has advised that the bill will be effective to overcome the decision of Justice Dunford. The bill specifically states that the Blessington sentence cannot be redetermined until at least 30 years of the existing life sentence has been served, and even if a non-parole period is set no fixed term will be set. Parole cannot be granted unless Blessington or any other never-to-be-released prisoner is in imminent danger of dying, and has demonstrated that he or she poses no risk to the community. That is the undertaking I give the House. The Government's intention is generally clear and specific. The Government acts upon that advice and on those understandings. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[*Madam Acting-Speaker (Ms Marie Andrews) left the chair at 12.45 p.m. The House resumed at 2.15 p.m.*]

AUSTRALIAN WOMEN'S CRICKET TEAM

Ministerial Statement

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, and Minister for Women) [2.18 p.m.]: I take this opportunity to congratulate members of the Australian women's cricket team on their recent Women's World Cup victory. Early last month the women's team celebrated a decisive 98-runs win over India in the final match in South Africa. I am pleased to report that six members of the victory squad—Julie Hayes, Lisa Sthalekar, Lisa Keightley, Emma Liddell, Kate Blackwell and Alex Blackwell—are New South Wales Institute of Sport athletes. As the House is no doubt aware, the Government very proudly supports the Institute of Sport. I know that members will also want to join me in commending the team's sponsors and FOXSports for supporting the Australian women's cricket team and women's sport in general, particularly by televising this very important sporting event. It is good to see such a profile being given to women's sport. I congratulate the team.

Mr GEORGE SOURIS (Upper Hunter) [2.18 p.m.]: The Coalition joins with the Government in offering congratulations to the women's cricket team on winning the world championship. The Coalition believes that the team's example will be most beneficial to the Australian community, particularly to women and girls who play sport. The women's cricket team joins an illustrious group of women, particularly Australian netball players, in world championship ranking. The women's cricket team have played their part in maintaining Australia's place in international sport. On the half of the Coalition, I offer sincere congratulations to Australia's women cricketers.

MR MARK MATTHEWS CORRIMAL HIGH SCHOOL COMMENTS

Ministerial Statement

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [2.19 p.m.]: I place on record my concern over comments on ABC Illawarra radio this morning by presenter Mark Matthews. Mr Matthews made an untrue and unflattering reference to my old

school, Corrimal High School—the school I left in 1973. Mr Matthews said, "I went to Criminal High... I mean Corrimal High School." Stigmatising schools and students is appalling. I share the outrage of the Corrimal community. The school's principal and teachers are horrified and shocked. Mr Matthews is a former vice-captain of Corrimal High School who went on to graduate from the University of Wollongong with honours in civil engineering. Obviously his attendance at the Corrimal High School was good for him.

Mr SPEAKER: Order! I call the honourable member for Baulkham Hills to order.

Mr DAVID CAMPBELL: Corrimal High School is a great school, with great kids and great teachers. I call on Mr Matthews to retract his comment and apologise to the school, its students and the community.

FAKE IDENTITY CARDS

Ministerial Statement

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [2.21 p.m.]: The issue of under-age drinking is one that is taken very seriously by the Carr Government and by me personally. I note the presence in the public gallery of young people. Recently many cases have been reported to the Department of Gaming and Racing involving the use of fake identity [ID] cards that are being used to gain access to hotels and clubs in Sydney. One popular Sydney hotel refused entry to at least 12 teenagers with fake IDs over the last two Saturday nights alone. Fake IDs are becoming much more sophisticated. I invite honourable members to take a look at the enlarged copy of a fake ID that I am holding which is currently circulating. This sample looks just like the New South Wales probationary drivers licence, and it is available over the Internet. The Federal Coalition Government should ban sites such as that, not ignore them, as the problem will not go away.

Mr SPEAKER: Order! I call the honourable member for North Shore to order.

Mr GRANT McBRIDE: New South Wales is taking action. Today I announce that the Department of Gaming and Racing will conduct a major crackdown on the use of fake IDs by teenagers. The blitz will target clubs and hotels that are popular with the younger crowd. I make it clear that anyone who is underage and uses a fake ID to gain entry into licensed premises in New South Wales will be caught. Teenagers face fines of up to $1,100. Licensees who are found to have under-age drinkers on their premises face fines of up to $11,000. However, this is not about fines; it is about protecting our youth from the dangers of alcohol abuse. The vast majority of licensees are doing the right thing. They are responsible in their service of alcohol and they do not want underage people on their premises. They run responsible businesses and they support the law. But the few rogue traders need to be aware that it is only a matter of time before they are caught and they will face severe penalties.

Mr GEORGE SOURIS (Upper Hunter) [2.24 p.m.]: The Opposition acknowledges the seriousness of underage drinking. However, the Minister for Gaming and Racing is the last person in this Parliament who should talk about fake identification. He spent quite a bit of time boasting on the Central Coast, in Newcastle and at Cessnock that he once worked in licensed clubs under an assumed name. His portfolio covers the responsible service of alcohol! What a hypocrite! The Premier ought to change his portfolio as soon as possible.

UNPROCLAIMED LEGISLATION

Mr SPEAKER: Pursuant to standing orders, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 4 May 2005.

PETITIONS

Alstonville Bypass

Petition requesting that the Alstonville Bypass be completed by the end of 2006, received from **Mr Donald Page**.

Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mrs Shelley Hancock**, **Mrs Judy Hopwood**, **Mr Malcolm Kerr** and **Mr Steven Pringle**.

Somersby Fields Sandmining

Petition opposing the proposal for the Somersby Fields sandmining project, received from **Ms Marie Andrews**.

Kurnell Sandmining

Petition opposing sandmining on the Kurnell Peninsula, received from **Mr Barry Collier**.

Bungonia Quarry Construction Application

Petition opposing the application to construct a quarry at Ardmore Park, Bungonia, received from **Ms Katrina Hodgkinson**.

Jervis Bay Marine Park Fishing Competitions

Petition requesting amendment of the zoning policy to preclude fishing competitions, by both spear and line, in the Jervis Bay Marine Park, received from **Mrs Shelley Hancock**.

Lake Wollumboola Recreational Use

Petition opposing any restriction of the recreational use of Lake Wollumboola, received from **Mrs Shelley Hancock**.

Crime Sentencing

Petition requesting changes in legislation to allow for tougher sentences for crime, received from **Mrs Shelley Hancock**.

Cremorne Community Mental Health Centre

Petitions opposing the proposed relocation of health services provided by the Cremorne Community Mental Health Centre, received from **Ms Gladys Berejiklian** and **Mrs Jillian Skinner**.

Campbell Hospital, Coraki

Petition opposing the closure of inpatient beds and the reduction in emergency department hours of Campbell Hospital, Coraki, received from **Mr Steve Cansdell**.

Public Hospital Security and Staffing

Petition requesting that the Department of Health guarantee the safety of patients and employ sufficient staff in public hospitals, received from **Mr Barry O'Farrell**.

F6 Corridor Community Use

Petition noting the decision of the Minister for Roads, gazetted in February 2003, to abandon the construction of any freeway or motorway in the F6 corridor, and requesting preservation of the corridor for open space, community use and public transport, received from **Mr Barry Collier**.

Oxford Street Clearway

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

Old Northern and New Line Roads Strategic Route Development Study

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

Pacific Highway Overpass

Petition requesting the construction of an overpass for the Pacific Highway at the Tea Gardens-Hawks Nest intersection, received from **Mr John Turner**.

Forster-Tuncurry Cycleways

Petition requesting the building of cycleways in the Forster-Tuncurry area, received from **Mr John Turner**.

Newcastle Rail Services

Petition requesting the retention of Newcastle rail services, received from **Mr Bryce Gaudry**.

South Coast Rail Services

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

Southern Tablelands Rail Services

Petition opposing any reduction in rail services on the Southern Tablelands line, received from **Ms Katrina Hodgkinson**.

Pets on Public Transport

Petition requesting that pets be allowed on public transport, received from **Ms Clover Moore**.

Murwillumbah to Casino Rail Service

Petitions requesting the retention of the CountryLink rail service from Murwillumbah to Casino, received from **Mr Neville Newell** and **Mr Donald Page**.

Macdonald River Signage

Petition requesting that the Macdonald River be provided with signage stating "4 or 8 knots, no skiing, no wash", received from **Mr Steven Pringle**.

Mid North Coast Airconditioned School Buses

Petition opposing the removal of airconditioned school buses from the mid North Coast, received from **Mr Andrew Stoner**.

CountryLink Rail Services

Petition opposing the abolition of CountryLink rail services and their replacement with bus services in rural and regional New South Wales, received from **Mr Andrew Stoner**.

Milton-Ulladulla Public School Infrastructure

Petition requesting community consultation in the planning, funding and building of appropriate public school infrastructure in the Milton-Ulladulla area and surrounding districts, received from **Mrs Shelley Hancock**.

Skilled Migrant Placement Program

Petition requesting that the Skilled Migrant Placement Program be restored, received from **Ms Clover Moore**.

Colo High School Airconditioning

Petition requesting the installation of airconditioning in all classrooms and the library of Colo High School, received from **Mr Steven Pringle**.

Dunoon Dam

Petition requesting the fast-tracking of plans to build a dam at Dunoon, received from **Mr Thomas George**.

Shoalhaven River Water Extraction

Petition opposing the extraction of water from the Shoalhaven River to support Sydney's water supply, received from **Mrs Shelley Hancock**.

Hawkesbury Electorate Sewerage

Petition praying that funding be provided to construct a reticulated sewerage system for Agnes Banks, Freemans Reach, Glossodia and Wilberforce, received from **Mr Steven Pringle**.

Kurrajong East and Colo Heights Electricity Requirements

Petition requesting an assessment of the electricity requirements of Kurrajong East and Colo Heights, received from **Mr Steven Pringle**.

Isolated Patients Travel and Accommodation Assistance Scheme

Petition objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Mr Andrew Stoner**.

Tweed Shire Council Inquiry

Petition requesting the immediate cessation of the public inquiry into the Tweed Shire Council, received from **Mr Andrew Fraser**.

Crown Land Leases

Petitions requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **Mr Thomas George** and **Ms Katrina Hodgkinson**.

Collector Bushrangers Reserve Motorcycle Track

Petition requesting approval for the construction of a motorcycle track at Collector Bushrangers Reserve, received from **Ms Katrina Hodgkinson**.

Water-Access-Only Property Policy

Petition requesting a review of the water-access-only property policy, received from **Mrs Judy Hopwood**.

Great Lakes Council Rate Structure

Petition opposing a 30 per cent rate increase proposed by Great Lakes Council, received from **Mr John Turner**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr JOHN BROGDEN (Pittwater—Leader of the Opposition) [2.34 p.m.]: I move:

> That the General Business Notice of Motion (General Notice) of which I gave notice earlier today [Chief Superintendent John Hartley Redflex Holdings Shares] have precedence on Thursday 5 May 2005.

In this House yesterday I revealed a transcript of a police internal affairs interview with a key witness in the Hartley share affair. The transcript revealed that Mr Hartley was aware, three days before he bought shares in Redflex Holdings, that Redflex was in the red light and speed camera industry, that it had traffic camera contracts in New South Wales, and he was warned that there was a potential conflict of interest. Today I have new information on this matter. At 8.43 this morning my chief of staff received a phone call from the chief of

staff of the Minister for Police. The Minister's chief of staff asked for a copy of the transcript that I read yesterday. He made it clear that the Government was not in possession of that material. It was not in possession of all the relevant material when the Minister expressed full confidence in Chief Superintendent Hartley over the Redflex share affair.

The Minister stated that he wanted the transcript as it might not have been considered in the investigation. If this transcript from a key witness was not considered in the investigation, how can we have any confidence in that investigation? If the transcript might not have been considered we need a new investigation. The Minister has bungled this investigation. As a consequence I am seeking an urgent meeting today with the Commissioner of the Police Integrity Commission to hand this information over to him. We do not trust the Labor Party when it comes to investigating this matter. When the Minister stood up in this House yesterday he was not in possession of all the facts with respect to this matter. Yet he still went forward, and his office had to ring my office today to ask for a copy of this transcript. How incompetent!

Mr SPEAKER: Order! The Minister for Mineral Resources will come to order.

Mr JOHN BROGDEN: What sort of a police Minister does this State have? I will deliver this information to the Police Integrity Commission, where it should be properly investigated. I will call on the Police Integrity Commission to undertake a new investigation into this matter based on this transcript. The Minister has bungled his way through this matter. It is now incumbent on the Police Integrity Commission to open a new investigation.

Mr CARL SCULLY (Smithfield—Minister for Police) [2.38 p.m.]: What a stunt! We have just witnessed the most disgusting behaviour. The Professional Standards Command, which checks *Hansard*, was quite interested to learn that there was "new material" in respect of this investigation. My preliminary advice is that I was well founded in saying I should have confidence in Chief Superintendent Hartley. Not surprisingly, the Leader of the Opposition alleged—in fact, I believe he misled the House yesterday—that there was new material. I had sought advice and the advice was that all the material of relevance to the allegation was taken into account and the investigation was conducted. The Leader of the Opposition selectively picked out something that slanted the view a certain way and came into the Chamber to drop that bombshell. My advice is that Chief Superintendent Hartley was cleared of any inappropriate conduct.

Yes, I confess—I plead guilty, Gov, you got me—I spoke to my chief of staff. When someone in a responsible position, such as the Leader of the Opposition, comes into Parliament claiming to have new material I assume he is telling the truth. So I told my chief of staff to speak to the Leader of the Opposition's chief of staff just in case something had not been taken into account and to get a copy of the new material so that I could seek the advice of Professional Standards. But no such document arrived. Perhaps the Leader of the Opposition could have sought the advice of Professional Standards before question time. But, no, he came into the Chamber and pretended it was new material. It is not new; it has been taken into account. The Leader of the Opposition is maligning the good name of our police officers.

Mr SPEAKER: Order! The honourable member for Bathurst will come to order.

Mr CARL SCULLY: This is not the first time that he has had to apologise to police officers. Remember Operation Auxin, when the Leader of the Opposition was forced to go to the State Crime Command and say, "Police officers of New South Wales, I'm sorry; I apologise"?

Mr SPEAKER: Order! I call the honourable member for Willoughby to order.

Mr CARL SCULLY: The Leader of the Opposition should telephone Chief Superintendent Hartley and apologise. He should say, "I'm John Brogden and I'm a dimwit". This is a disgraceful attack. I will not sit by and let those characters opposite continually attack, browbeat and ruin the good name of our police. We back the cops and we will always back the cops. At the next election the test will be simple: Who backs the cops? We do! Shame on you!

Question—That the motion be agreed to—put.

The House divided.

Ayes, 34

Mr Aplin	Mrs Hopwood	Ms Seaton
Mr Armstrong	Mr Humpherson	Mrs Skinner
Mr Barr	Mr Kerr	Mr Slack-Smith
Ms Berejiklian	Mr Merton	Mr Souris
Mr Brogden	Ms Moore	Mr Stoner
Mr Cansdell	Mr Oakeshott	Mr Tink
Mr Constance	Mr O'Farrell	Mr J. H. Turner
Mr Debnam	Mr Page	Mr R. W. Turner
Mr Draper	Mr Piccoli	
Mr Fraser	Mr Pringle	*Tellers,*
Mrs Hancock	Mr Richardson	Mr George
Mr Hartcher	Mr Roberts	Mr Maguire

Noes, 54

Ms Allan	Mr Greene	Mr Pearce
Mr Amery	Ms Hay	Mrs Perry
Ms Andrews	Mr Hickey	Mr Price
Mr Bartlett	Mr Hunter	Dr Refshauge
Ms Beamer	Mr Iemma	Ms Saliba
Mr Black	Ms Judge	Mr Sartor
Mr Brown	Ms Keneally	Mr Scully
Ms Burney	Mr Knowles	Mr Shearan
Mr Campbell	Mr Lynch	Mr Stewart
Mr Carr	Mr McBride	Mr Torbay
Mr Collier	Mr McLeay	Mr Tripodi
Mr Corrigan	Ms Meagher	Mr Watkins
Mr Crittenden	Ms Megarrity	Mr Whan
Ms D'Amore	Mr Mills	Mr Yeadon
Mr Debus	Mr Morris	
Mrs Fardell	Mr Newell	
Ms Gadiel	Ms Nori	*Tellers,*
Mr Gaudry	Mr Orkopoulos	Mr Ashton
Mr Gibson	Mrs Paluzzano	Mr Martin

Pair

Ms Hodgkinson	Miss Burton

Question resolved in the negative.

Motion negatived.

QUESTIONS WITHOUT NOTICE

MISS MARITZA TRIMMER AND PROGRAM OF APPLIANCES FOR DISABLED PEOPLE FUNDING

Mr JOHN BROGDEN: My question is directed to the Premier. Is the Premier ashamed that he used 14-year-old scoliosis sufferer Maritza Trimmer in a publicity stunt last year but now, due to his underfunding of the Program of Appliances for Disabled People, she has been forced to wait 15 months for two commode chairs that would allow her the basic dignity of showering and going to the toilet herself at home and at school?

Mr BOB CARR: I am advised that Maritza Trimmer is close to the top of the waiting list for equipment at Calvary.

Mr SPEAKER: Order! I call the honourable member for Southern Highlands to order.

Mr BOB CARR: I can advise the House that the Minister for Health approved an additional $1 million funding for the program in April this year.

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order.

Mr BOB CARR: I am advised that the Program of Appliances for Disabled People will be contacting her family to arrange a mutually convenient time.

Mr SPEAKER: Order! I call the honourable member for Murrumbidgee to order for the second time.

Mr BOB CARR: The student is in year 8 at Randwick Girls High School. She uses a wheelchair. She is supported through funding of $7,500 in 2005 to assist her integration into the school. I understand that the school has accessible toilet facilities for students with disabilities. Her mother assists her with toileting at the school each day. I am advised that this is the preference of both the girl and her mother. I can tell the honourable member that following discussions with Maritza and her mother, Randwick Girls High School is purchasing adjustable tables that will assist her further.

Mr SPEAKER: Order! The Leader of the Opposition will stop yelling out.

Mr BOB CARR: The school receives special funding and, as I said, there is an allocation of $7,500 in 2005 for the school. The school is talking to the family about purchasing additional equipment. Its supportive response reflects the determination of the Government to provide equality of education for all students with disabilities who are integrated in the school system.

HIT AND RUN ACCIDENT PENALTIES

Mr STEVE WHAN: My question is addressed to the Premier. What is the Government's response to community concerns about hit and run incidents and so-called drug-driving?

Mr BOB CARR: The House will be sadly familiar with the tragic case of 9-year-old Brendan Saul, who was killed while riding his bike at Dubbo on 8 January last year by a 15-year-old driver who fled the scene. The family is understandably distressed by the outcome of the prosecution, which resulted in a 12-month probation order. In fact, many unsatisfactory aspects of the law are exposed by this case, particularly the need to strengthen penalties for people who fail to stop at accidents and the need for a tougher drug-driving regime. That is why the Government will create a new penalty for the offence of failing to stop that will provide for a range of maximum penalties of up to 10 years imprisonment.

A new element of the offence will be met where a person fails to stop, knowing that death or injury would result from the accident. The offence will require an offender to stop and give all necessary assistance that is reasonable in the circumstances. That may include calling the ambulance and emergency services as well as helping the victim where possible. It would also include reporting the accident to police so the chance is not lost to take breath, saliva or blood samples and to identify witnesses. In fact, the law will catch situations where the failure to report an accident hinders the subsequent investigation, for example, by denying police the chance to take a blood alcohol test that would show the offender was over the limit at the time of the accident.

The new maximum penalties will be severe; a substantial increase on the current penalties. The maximum penalties will be: 10 years imprisonment where death results from the accident, equivalent to the maximum penalty for dangerous driving occasioning death; seven years imprisonment where grievous bodily harm results from the accident, equivalent to the maximum penalty for dangerous driving occasioning grievous bodily harm; and five years in any other case, equivalent to the maximum penalty for causing actual bodily harm. These changes are another part of a package the Government is developing in response to the Brendan Saul case. They build on the reforms targeting drug-drivers that have been already announced by the Minister for Roads.

The drug-driving reforms include creating an offence of driving with prescribed illicit drugs present in the body. We will also authorise police to undertake random roadside drug tests, and that is in addition to our proposal for mandatory drug testing following fatal crashes. We are aware of the problems faced in Victoria with roadside drug tests, and for that reason we have an interagency working party to ensure that New South

Wales has a reliable test for illicit drugs that can easily be administered by police. I understand such a test is not far off. With these new sanctions and new tests, motorists who drive under the influence of drugs, and motorists who flee the scene of an accident, will face tougher penalties and a greater chance of being caught. Brendan Saul's death was not in vain. Major law reforms and major changes to policing are happening because what happened after his death was not good enough. Leaving the scene of an accident and drug-driving are serious crimes, and they will not be tolerated in this State.

KEMPSEY DISTRICT HOSPITAL STAFF MEMBER CHILD PORNOGRAPHY ALLEGATIONS

Mr ANDREW STONER: My question is directed to the Minister for Health. The Minister has had 24 hours to get across what is happening in his portfolio. Will he now confirm that he failed, until three months later when it was reported in the newspapers, to suspend from his duties a man who was in charge of the children's ward at Kempsey District Hospital and who was charged by police in January with possessing pornographic images of children?

Mr MORRIS IEMMA: I am advised that the North Coast Area Health Service became aware of the charges against a nurse unit manager at Kempsey District Hospital on 3 February and received a letter from that employee to that effect on 9 February this year. Child protection legislation in New South Wales and NSW Health policy do not currently require a person charged with child-related offences to be suspended from duty. However, these do oblige the area health service to undertake a comprehensive risk assessment and notify the New South Wales Ombudsman and the health department.

The Department of Health advice is that in cases such as this it tends towards caution and typically suspends the employee involved. I have advised the director-general of the department that that is my clear preference. It is a fact that this person was suspended from his employment on 17 April this year. Should this person be convicted of the charges, the person would be prohibited under departmental policy from working in child-related employment in a New South Wales hospital. I am further advised that there was a delay in the decision to suspend this employee. However, the advice provided by the deputy director-general and the area chief executive is that a risk assessment did take place, and the following steps were taken to ensure that the staff member did not have unsupervised access to any patients. The employee was rostered to work only on weekdays under the supervision of senior nursing staff, with at least two other staff working on the same ward at the same time. The Director-General of Health advises me that the nurse was at no time from his return to work on 28 February allowed to work unsupervised in any ward at Kempsey hospital.

Mr Andrew Stoner: Point of order: The Minister has failed to advise the House when he was advised of this matter. When was he advised?

Mr SPEAKER: Order! The Leader of The Nationals will resume his seat.

Mr MORRIS IEMMA: Further, the director-general advises that the manager of the department's employment screening branch has been directed to work with the area to review its procedures and ensure that it complies in future with New South Wales child protection legislation and departmental policy.

SOCCER FANS VIOLENCE

Mr PAUL PEARCE: My question without notice is directed to the Minister for Police. What is the Government response to community concerns about soccer violence?

Mr CARL SCULLY: As most people would be aware, on the past couple of weekends two very unfortunate incidents occurred between soccer clubs—one largely Croatian-backed, Sydney United, and one mostly Serbian supported, Bonnyrigg White Eagles. No reasonable person in our community would support the throwing of flares, missiles and objects at supporters of opposing teams. Ancient ethnic hatreds have absolutely no place in Australian society. Expression of those hatreds at a sporting fixture in Australia in 2005 is totally inappropriate and will not be tolerated.

Families ought to be able to go to a soccer match with their children and enjoy a soccer game without being fearful of riotous behaviour occurring due to tensions between supporters that could go back not just decades but perhaps centuries. We have indicated to clubs that if they are not able to control their supporters, that control will need to be exercised for them. As the member for Smithfield, I live near both of the clubs that I have mentioned. I am concerned for the vast majority of the hundreds of people who enjoy soccer and like to go

along and support their teams. As Minister for Police, I am concerned that police have had to use considerable resources, time and effort to deal with these two matters.

I note that Tom Doumanis, President of Soccer New South Wales, is in the gallery. I personally congratulate Tom Doumanis for his enormous efforts to deal with these problems. It has taken quite some courage. Previous administrators would have been a little fearful about responding very strongly and decisively in such a turbulent environment. Obviously, people can get carried away and tempers can flare. Past administrators have been a bit concerned about taking such strong actions. Tom Doumanis has not. He has been bold and courageous, and has today announced a number of disciplinary measures in respect of the two clubs. I congratulate you, Tom. Well done. I fully support Tom Doumanis taking the initiative to appoint an independent panel, headed by Stepan Kerkyasharian, and also served by Irene Moss and Kevin Waller. The report was tabled earlier today and is available for those who wish to read it. It contains 52 recommendations, all of which have been accepted by Soccer New South Wales, which has acted upon it.

Earlier today Tom Doumanis announced the suspension of Sydney United for four matches, effectively ending their season. The matches of the Bonnyrigg White Eagles have been deferred pending the resolution of its internal disciplinary body, known as the General Purposes Tribunal, which will investigate the most recent incidents involving both clubs. The tribunal will deliver its findings and recommendations in the next two weeks. The panel also made recommendations about certain legislative changes. Earlier today, on behalf of the Government, I advised that we would introduce legislation to enable courts to impose bans on people attending sporting fixtures. People arrested at these sporting fixtures will be able to be charged with appropriate offences. If they are convicted, a magistrate will be able to ban those persons for periods of up to 5 years for a first offence and up to 10 years for a second offence.

This action shows that Soccer New South Wales, the Government and the police are fair dinkum about sending a very strong message to these communities. We are not going to tolerate this sort of behaviour. We will not allow the enjoyment of the soccer community to be spoilt by a small number of people. Later this year the A league kicks off. The eight teams will have geographical boundaries, not ethnic community boundaries. I was pleased to hear Tom Doumanis earlier today indicate, in respect of this competition, that there would be a restructure involving districts, rather than communities. I think that is a very strong message from the senior leadership in Soccer New South Wales that they are as fair dinkum as they possibly can be about disciplining supporters and clubs, and will take them out of the competition if need be. They are doing all they can to make sure that the organisation is structured in a way that enables people to go along to a match and enjoy their local district team playing soccer.

KEMPSEY DISTRICT HOSPITAL STAFF MEMBER CHILD PORNOGRAPHY ALLEGATIONS

Mr ANDREW STONER: My question is directed to the Premier. In view of Minister Iemma's admission today that the Government's child protection laws do not require the immediate suspension of hospital staff charged with child sex offences, will the Premier now take immediate steps to close this loophole in the legislation?

Mr BOB CARR: I will seek advice on the matter and respond accordingly.

MEDICARE SAFETY NET CHANGES

Mr PAUL McLEAY: My question without notice is directed to the Minister for Health. What is the Government's response to community concerns over Commonwealth changes to the Medicare safety net?

Mr MORRIS IEMMA: On 14 April, in the months following the Federal election, the Commonwealth Government made one of the largest and most significant political backflips ever seen in this country. The Prime Minister announced that the ironclad guarantee, given just six months earlier in relation to Medicare safety net thresholds, had been ripped up and tossed in the bin. Increasing the level of safety net thresholds means just one thing: higher fees for all patients for basic medical services covered by Medicare, for general practitioner services, for referrals to specialists such as neurologists, cardiologists and ophthalmologists, and even for pathology services.

Members of this House should make no mistake: It means increased costs. The primary victims of this backflip will be families earning average incomes who will now be forced to pay an extra $200 a year for Medicare-covered services. Families on average incomes who receive 80¢ in the dollar for out-of-pocket

medical expenses over $300 will now have to pay $500 each year before they receive back one cent. That is the equivalent of another five to six visits to a general practitioner for each family each year before the Commonwealth will provide any assistance. Pensioners will have to pay an extra $200 a year out of their own pocket before they qualify for the safety net discount. If you are single the news is no better.

Instead of facing a threshold of $700 before qualifying for the safety net, singles will now have to pay the first $1,000 of basic health care costs each year. To put that in context, a single person will have to visit a general practitioner an average of 25 times a year before being eligible for a discount. It is worth reflecting on the commitments made in October, when the Federal Treasurer categorically guaranteed, "The parameters of the Medicare safety net will not change." On 6 September we had the now infamous and even more categorical quote from the Federal Minister for Health. In promising that the safety net threshold would not be changed he said, "That is an absolutely rock-solid, ironclad commitment." It does not get any more categorical than that.

Mr SPEAKER: Order! I call the honourable member for Willoughby to order. I call the honourable member for Coffs Harbour to order.

Mr MORRIS IEMMA: The Federal Minister for Health said, "That is an absolutely rock-solid, ironclad commitment." Not even John Howard would regard that as a non-core promise. The effect of the decision to abandon this commitment is that hundreds of thousands of families will be forced to fork out more to meet their basic health needs or, worse still, they will simply ignore basic medical problems that should be attended to. It is now clear that the Federal Coalition unequivocally regards Medicare purely as a welfare system for health care. Any commitment they make to any broad-based, universal Medicare system cannot be relied on. The Commonwealth is prepared to sacrifice this principle of universal health care to build their budget surpluses. That is why they ripped billions of dollars from the States and Territories when they forced them to sign the 2003-08 health care agreement. They took the money out of public hospitals to fund their original, discredited, Kay Patterson Medicare package and they have now walked away from the central plank of their strengthening Medicare package, the Tony Abbott package, and the maintenance of safety net thresholds, on the basis that families can now afford to pay massive increases in their medical costs.

The original Kay Patterson package was paid by ripping the money out of public hospitals. Then we got version two, which was unveiled just prior to the election: the rolled gold guarantee. They have walked away from that commitment and any principle of universal health care coverage for basic health care costs. They have walked away from any commitment whatsoever. A line-up of well respected health commentators in the health industry is giving us a clear picture of what it means. Andrew McCallum, the President of the Australian Council of Social Service, said that the change in the safety net threshold is really going to hurt those who are sick and poor. Dr Bill Glasson, the Federal President of the Australian Medical Association, said that families would now feel as though they have been cheated. Prior to the election the new Medicare package, funded from cuts to public hospitals, was unveiled and we have seen how long it lasted: less than six months.

Bill Glasson said that this commitment was supposed to be well thought out and well costed. We have seen just how well thought out and well costed the commitment has been. In the course of condemnation we heard nothing, not one word from the Opposition condemning what their mates in Canberra had done. We did not hear one word of support for our public hospitals when $1 billion was being ripped out to fund the original Kay Patterson package. We did not hear one word, absolutely nothing, from the Opposition when the Abbott package fell apart. When it comes to standing up and defending the New South Wales public hospital system we hear nothing. When it comes to defending the average family whose health care costs will rise through the roof we have not heard one word of support. We are still waiting for one word—

Mr Steve Cansdell: Point of order: My point of order is relevance. I would like to ask the Minister what he is going to say—

Mr SPEAKER: Order! The honourable member for Clarence will resume his seat. The Minister is answering the question.

Mr MORRIS IEMMA: Three months on we are still waiting to hear one word about Port Macquarie Hospital.

F6 MOTORWAY PROPOSAL

Mr JOHN BROGDEN: My question without notice is to the Premier. Given that the prominent left-wing member of Parliament, the honourable member for Miranda, and the former Minister for Roads, the Hon. Carl Scully, oppose the construction of the F6, but the honourable member for Heathcote and the current Minister for Roads, Michael Costa, support the construction of the F6, exactly what is his position and will he build the road?

Mr BOB CARR: Of all the leaders of all the political parties on all the continents washed by the seven seas to raise factional considerations, I would have least expected it from this man.

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

Mr BOB CARR: Here I have a sheaf of references from local papers in the last two weeks about factions in the Liberal Party.

Mr SPEAKER: Order! A number of members of the Opposition are behaving in a grossly disorderly way by raising photocopies of newspapers in the Chamber. A number of them are already on several calls to order. Those members are deemed to be on three calls.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Gosford to order.

Mr BOB CARR: Honourable members might be aware of my recent references in Parliament to the honourable member for Cronulla. I said he was a sterling member of Parliament—and to think that because of factionalism he faces a leadership challenge! He is now being quoted in his local newspaper as saying how good he is and quoting me in his support. He is saying the reason he ought to get another run is, "The Premier praised me in the Parliament. The Premier referred to me as a champion parliamentarian." I am happy to be quoted on his brochure seeking preselection when the time comes. Since the House last met we have been treated to reports that people allegedly of a certain ethnicity recruited to the Liberal Party by the right wing are rapidly taking it over and flashing pistols to intimidate opponents. They are now turning up at meetings, but the Leader of the Opposition will not stand up to them. He will not tell them to stop doing it. He is intimidated by these people. So they are now turning up, and the Leader of the Opposition will not stand up to them. He will not tell them to stop. They are turning up to Liberal Party branch meetings, armed to the teeth.

Mr Andrew Tink: Point of order: My point of order relates to relevance. The Premier is brandishing press clippings and he has the wrong one.

Mr SPEAKER: Order! There is no point of order. The honourable member for Epping will resume his seat. I place him on three calls to order.

Mr BOB CARR: Why does this remind me of Thursdays? The Opposition has run out of questions a day earlier.

Mr John Brogden: Point of order—

Mr Carl Scully: You have run out of questions.

Mr John Brogden: Not as long as the Minister for Police is in the job. There are plenty of questions about him. I asked the Premier whether he will build the F6. Will he build the F6? The people from the *St George and Sutherland Shire Leader* want to know.

Mr BOB CARR: In a northern suburbs newspaper there is a report that the honourable member for The Hills—I have not heard of him, but I presume they use him—will lose his preselection because of Liberal Party factionalism. He can run off to his local branches and say that the Premier described him as a champion parliamentarian. I so baptise him now!

Mr SPEAKER: Order! Honourable members will contain their excitement.

Mr BOB CARR: In his last preselection he faced six opponents. I hope he gets through next time unscathed. The other member from The Hills district, the honourable member for Baulkham Hills, is also facing a preselection threat. He may quote me in his brochure and say that the Premier described him as an eminent Liberal moderate. Not since that intellectual front-runner, Ted Pickering, has there been someone quite as astute as he is, but now he is going to be taken out by the extreme fundamentalist right wing group that is taking over the Liberal Party, unresisted and unopposed by the Leader of the Opposition.

The honourable member for Lane Cove has given some briefings. As the Iraqi War continued beyond earlier expectations, we in the Labor Party all expected him to duck over there to the field command, or at least

take his typewriter and host a few cocktail parties. The editor of the *North Shore Times* has been forced to defend him against Sam Witheridge, who described him as dead wood. Even in Wagga Wagga there has been the headline "Unrest in Liberals may hinder State vote result". The article states, "All over the State, branch stacking revives enmity"—and it is not in the Labor Party. That type of thing will not be found in the Labor Party. The article is about "three moderate Liberal MPs who are expected to face searing preselection battles, as factional warfare steps up in the Liberal Party." The article states:

> There are allegations that John Brogden is failing to show leadership and stop the branch stacking.
>
> Despite the common perception that Labor suffers from the factions disease, the conservative side of politics is stricken with this outbreak of factional fighting. John Ryan, Patricia Forsythe, Don Harwin—

Apparently they are members of the upper House. I have never heard of them, but apparently they are members of that Chamber and they face preselection wipe-out, as well as the two from The Hills area—all due to branch stacking. Laurie Oakes, who normally writes about national political affairs, has been forced to devote a column to Liberal Party branch stacking and refers to an extremist group taking over a once great political party.

Mr Barry O'Farrell: Point of order. My point of order is relevance. The answer does not go to the F6. It goes to branch stacking. Tell us about Walt Secord and branch stacking. Tell us about what Walt Secord has got in mind for the honourable member for Coogee.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat.

Mr BOB CARR: All this has occurred since the House last met. This is all new material. We were told in a recent *Daily Telegraph* report that Leader of The Nationals has lately had a "frosty relationship" with the Leader of the Liberal Party. Why is the shadow Treasurer sitting way down the back of the Chamber? She has an important job. I invite her to the front bench. She should come up and sit at the top of the Opposition front bench, which is where the shadow Treasury belongs, as I am sure all Labor members agree. In no government in this State's history has a State shadow Treasurer been anywhere except on the front bench.

Mr SPEAKER: Order! I call the honourable member for The Hills to order.

Mr BOB CARR: The Opposition has a Treasury spokesperson sitting way off, down the back of the Chamber. The honourable member for Southern Highlands should come on up to the front bench. That is where a shadow Treasurer ought to be.

Mr SPEAKER: Order! I call the honourable member for Penrith to order.

Mr John Brogden: Point of order: The Logies were last week, Bob.

Mr SPEAKER: What is the Leader of the Opposition's point of order?

Mr John Brogden: That performance is barely worthy of the Logies, Bob. Tell us about the F6.

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr BOB CARR: It must be Thursday, because the Opposition has run out of questions. That is the telltale sign that it is Thursday. This is the Thursday report. I read from the *Daily Telegraph* dated 13 April:

> Liberal Leader John Brogden yesterday officially elevated the former archaeologist, rural conservationist and part-owner of a sheep farm from planning spokeswoman to the shadow treasury job …

On the basis of the carefully researched question asked yesterday by the honourable member for Southern Highlands, I would say that, as a Treasurer, she would make a very good archaeologist. By the way, her local paper came out today with the latest performance in share tipping. As honourable members know, this is a weekly occurrence. There are five people, including primary school captains and others, who are tipping shares. Whose selection was at the bottom once again? None other than our friendly archaeologist, the shadow Treasurer. If she had been in control of State funds, in the space of one week she would have lost 11.4 per cent, or more than $1 billion.

A member of the shadow Cabinet was quoted in the *Sydney Morning Herald* as saying on 13 April when the honourable member for Southern Highlands was appointed—this statement shows the type of loyalty

within the Opposition that would never be found in any other political party—"Peta Seaton has no evident familiarity or empathy with numerical work." Without being unkind, I might say that that was made very clear by the share tipping game. The shadow Treasurer has big choices to make: she can stay down the back of the Chamber, or she can accept my invitation, that is to say the Labor members' invitation, to move up to the front bench. What do Labor members say? I am sure they think that the shadow Treasurer should be at the front bench end of the Chamber. After all, the shadow Treasurer is the people's choice. That is the people's wish.

Mr SPEAKER: Order! The Leader of The Nationals will resume his seat.

Mr BOB CARR: The second thing I strongly recommend after her recent losses in the share market is that she drop out of the Southern Highlands game, because I would hate to have to refer to this week after week. To be defeated by a local poultry farmer and the captain of the primary school—

Mr John Brogden: Point of order—

Mr BOB CARR: Oh, he is kidding. Stop bringing this stuff in!

Mr John Brogden: The question is whether the Government is going to build the F6. The Premier can laugh as much as he likes, but Barry Collier's job is on the line over this. Will he or will he not build the F6?

Mr SPEAKER: Order! The Leader of the Opposition will resume his seat.

Mr BOB CARR: It is Wednesday and the Opposition has already run out of questions. The *Sydney Morning Herald* of 13 April stated:

> Several senior Liberals expressed surprise that Mr Debnam, a former Treasury spokesman—

a "former Treasury spokesman", remember that—

> had been overlooked in favour of Ms Seaton.

He has our sympathies too. A member of the shadow cabinet team said:

> Most of us expected someone like Peter Debnam—

I do not think there is anyone like Peter Debnam—

> to pick up Treasury because he had done it very effectively before.

I had forgotten that he had ever been shadow Treasurer, but I suppose it might be said that he had done it effectively. The spokesman continued:

> Peta Seaton has no evident familiarity or empathy with numerical work.

By the way, the land that was referred to by the Leader of the Opposition has been secured as a road corridor for the past 50 years.

Mr SPEAKER: Order! A number of members are on three calls to order. I have resisted requests that the Sergeant-at-Arms remove several members, to whom I am paying close attention. I would like to finish question time without ejecting members from the Chamber, but that is totally up to them.

DEFAMATION LAW REFORM

Mr KIM YEADON: My question without notice is directed to the Attorney General. What is the latest information on defamation law and related matters?

Mr BOB DEBUS: The honourable member for Granville is certainly well aware that the right to freedom of expression in a democratic society is vital and precious. That right can sometimes sit uneasily alongside the right to be protected from the malicious destruction of one's reputation. Those competing rights are the reason why the reform of our defamation laws is both important and highly contentious. In a spirit of goodwill over the past 18 months the States and the Commonwealth have co-operated to arrive at a package that will reform the present patchwork of inconsistent defamation laws that operate across Australia, and indeed have always done so.

It is fair to say that the package leans more heavily in the direction of freedom of expression and unshackling the responsible media from some of the constraints that have applied in some States, including in New South Wales. The States and Territories, led by New South Wales, have released model legislation that sets out a proposed framework for uniform State and Territory defamation laws. All States and Territories are committed to introducing consistent legislation by 1 January 2006. That would be an historic achievement, were it to happen.

However, apparently as part of the pointless machismo currently afflicting Federal Ministers dealing with the States, almost at the eleventh hour in this harmonious process the Federal Attorney- General is seeking to impose upon the States his own uniform national defamation law—that is, a ninth defamation law in the Commonwealth of Australia. While in itself that might be seen as part of the posturing and rhetorical flourishing that the Commonwealth is seeking to engage in across a range of issues, it is the content of Mr Ruddock's proposals that is particularly obnoxious to defenders of free speech. Mr Ruddock's initial proposals include a right to sue for defamation on behalf of the dead. That dawn-of-the-dead proposal would see famous criminals and crooks reach out from beyond the grave to sue media outlets and book publishers. Based on some of the coverage from last week of Sir Joh Bjelke-Petersen, writs could have been issued—

Mr SPEAKER: Order! I remind the honourable member for Epping that he is on three calls to order.

Mr BOB DEBUS: Under the Ruddock proposal, writs could have been issued against every newspaper in the country. Thankfully the proposal to prevent defamation of the dead has been dropped. However, the Federal Attorney-General is now holding out for an equally obnoxious proposal: the right of large corporations to sue to protect their reputations; the right of McDonald's to sue the bearded protester standing outside a store with a handful of leaflets; the right of the property developer to sue the local residents action group; or the right of Shell or Exxon to sue an environmental activist.

There is simply no need to allow large corporations to sue for defamation in that way, because they have no personal reputation to protect. The commercial reputations they enjoy in the community are largely the product of advertising campaigns. Large corporations are already in possession of ample legal protection for the legitimate interests of a commercial nature that they hold, including actions for injurious falsehood and applications for relief under the Trade Practices Act.

By giving corporations the right to take defamation action, the Commonwealth would give free reign to big companies to abuse their economic strength in order to silence individuals and stifle free speech. It generally takes a great deal of courage and a lot of money to defend a defamation action by a corporation. If a plaintiff corporation seeks damages and wins, it will also be able to claim legal costs. Companies receive tax breaks for litigation fees. On the other hand, individual defendants, even if they win the case, generally walk away with a large legal bill to pay.

The notorious "McLibel" case provides a sobering example of how corporations can abuse their legal rights. In that case the European Court of Human Rights observed that the power of McDonald's outstripped that of many small countries. McDonald's used its corporate might in the courts in an attempt to silence criticism. That case was the longest running trial in English legal history. Even if one was utterly convinced of the merits of one's defence, how many individuals are rich enough to take on a financial Goliath in the Supreme Court, and brave enough to lose everything they own in legal fees?

That is how the defendants in the Tasmanian Gunns case must be feeling right now. Gunns, the giant logging company, has an annual turnover of more than $600 million. It is suing 20 individual environmental activists and organisations on a range of grounds, including defamation. It is seeking more than $6 million in damages. If the Commonwealth should proceed with its threat to introduce a national defamation law we can expect to see more and more corporations attempting to silence critics with defamation suits. The commonwealth wants to allow all corporations, large and small, to sue individuals for defamation.

At present they cannot do that in New South Wales. Since 2002 only small businesses with fewer than 10 employees can sue. The New South Wales defamation law allows individual members of corporations to sue, but it stops large corporations from using their economic strength to stifle public criticism and freedom of expression. If the Commonwealth Attorney-General's proposal is implemented it would have a catastrophic effect on free speech, which used to be something that the Liberal Party cared a lot about. Recently I wrote to the Commonwealth Attorney-General to indicate that New South Wales cannot accept the proposition that large corporations should be given this right to silence criticism. I can only hope that the Commonwealth, for once, will decide to reject the interests of multinational corporations in favour of every day democratic freedoms in Australia.

SERVICES SYDNEY PTY LTD ACCESS TO SYDNEY WATER INFRASTRUCTURE PROPOSAL

Mr DAVID BARR: My question without notice is directed to the Minister for Energy and Utilities. Has the Minister met with the principals of Services Sydney Pty Ltd to discuss the proposal to tap into Sydney Water's infrastructure? If not, will he be doing so?

Mr FRANK SARTOR: Honourable members would be aware that Services Sydney Pty Ltd originally made an application to the National Competition Council. New South Wales then initiated an inquiry with the Independent Pricing and Regulatory Tribunal [IPART]. IPART is looking at access provisions for Sydney Water more generally. I will answer the honourable member's specific question in a moment after I have given him some background to this very complex issue. I have not been able to find any comparable access regime anywhere in the world equivalent to what Services Sydney is asking for. There are proper processes before the National Competition Tribunal, to which Services Sydney has since appealed at a national level and IPART is inquiring into the matter.

In relation to my position on the matter, I wrote to Services Sydney a month and a half ago seeking a lot more detail about its proposal. Services Sydney's proposal refers only to generalities but I need details. Services Sydney wrote back to me seeking a meeting. My response to that was that as soon as it provides me with the details I have requested I will be happy to meet with it on a without prejudice basis.

Mr SPEAKER: Order! The Leader of The Nationals will stop calling out.

Mr FRANK SARTOR: Are honourable members aware of the difference between the water policies of the Government and the water policies of the Opposition? If the drought continues indefinitely our contingency plans are to take seawater and turn it into drinking water. The Opposition's contingency plan is to make people drink sewage. We are dramatically expanding water reuse. The Minister for Infrastructure and Planning will be releasing a further report on recycling in new release areas. What Services Sydney has requested is without precedent. I have asked it for a lot more detail. As soon as I have that detail I will be happy to meet with Services Sydney on a without prejudice basis.

REVESBY TURNBACK AND CLEARWAYS PLAN

Mr ALAN ASHTON: My question without notice is addressed to the Minister for Transport. What is the latest information on the Revesby turnback and the clearways plan?

Mr JOHN WATKINS: New South Wales, and Sydney in particular, has one of the most complex rail systems in the world. It has developed over the last 150 years and it has had a series of add-ons that have only added to the complexity of the system. Unfortunately, that has made the network that we have inherited vulnerable to disruption and delay. The Carr Government is spending over $1 billion in its rail clearways plan to improve the capacity and reliability of the CityRail network. Under the clearways plan RailCorp is building additional track, platforms, turnbacks and loops to increase capacity and ease congestion on certain parts of the network.

The clearways plan is designed to remove bottlenecks and junctions and reduce congestion and delays on the network. With the completion of the clearways plan in 2010 an incident on one part of the network will be far less liable or able to spill over onto other clearway paths. This forms a key part of the Government's long-term infrastructure plan in New South Wales. I am pleased to report that the clearways program is well on track. Funding of over $531 million has been approved in the nine projects to be delivered by the end of 2008. Due diligence investigations into the operational objectives, scope, cost, delivery strategy and management strategies have been completed for all those projects. The due diligence examination of the other six projects to be completed by 2010 is also nearing completion.

I take this opportunity to update the House on the status of some of those projects. The $78 million Revesby project scheduled for completion in late 2007 involves the construction of a new turnback and platform at Revesby station. The new turnback, combined with the 2008 timetable, will remove the need for 65 services

per day to cross in front of city-bound services, thereby improving recovery times from delays. Benefits to passengers include reduced delays and fewer cancellations for all services on the East Hills and airport lines. The $31 million Homebush project, which is scheduled for completion by the end of 2008, involves the construction of a new turnback and platform at Homebush station. Existing arrangements at Homebush require four different types of services to merge and operate on the west suburban line between Homebush and Lidcombe. That often results in delayed services and also a lack of flexibility in the system in that area.

The new turnback will allow all-station inner west line services to and from the city to start at Homebush. Inner west local services will terminate at Homebush and return to the city, keeping all-station trains quarantined to the local lines and easing congestion on the four-track corridor between Lidcombe and Homebush. The $41 million Lidcombe turnback project, also due for completion in 2008, involves the construction of a new turnback and platform at Lidcombe station for the Bankstown line services. The Homebush to Lidcombe corridor is currently congested with south line trains competing for paths to the city with lightly loaded trains from Regents Park. The Lidcombe turnback will allow us to terminate Regents Park trains at Lidcombe, thereby reducing train congestion at Homebush, Lidcombe and Sefton and thereby reducing delays and improving service reliability.

These facilities will also support additional trains in peak hours on the Liverpool via Granville corridor, reducing passenger crowding at key south line stations including Fairfield, Merrylands, Granville, Auburn and Lidcombe. As a combined result of the Lidcombe and Homebush projects, RailCorp will introduce a number of service changes. They will include an additional two services in the peak hour to the Sydney central business district [CBD] from Fairfield to Lidcombe, significantly reducing crowding and supporting future demand growth. They will also result in the reducing of overcrowding at CityRail CBD stations and increase service frequencies at key rail interchanges at Liverpool, Cabramatta, Lidcombe, Bankstown, Campsie and Sydney, and they will deliver more reliable and easily understood service patterns.

Honourable members can see from the complexity of the outline I have given today that bringing about simplicity to the network will improve service patterns for consumers. I am pleased to inform the House that during April planning consultants were appointed to undertake an environmental assessment for each of these projects. SKM will undertake planning assessment work for the Homebush and Lidcombe project, while Connell Wagner will undertake environmental assessments for the Revesby project. These assessments will include studies of traffic noise, vibration, heritage and other environmental issues relevant to both the construction and the operation of these most important projects.

The clearways plan is a key building block in the Carr Government's commitment to a safer and more reliable rail network. Combined with increased driver numbers—they are certainly graduating in numbers this year—around 800 carriages worth $2.5 billion and the new 2005 timetable, we will continue to work towards delivering the public transport system that the travelling public of this State deserves.

Questions without notice concluded.

CONSIDERATION OF URGENT MOTIONS

Voluntary Student Unionism

Mr GERARD MARTIN (Bathurst) [3.50 p.m.]: My motion is urgent because the Federal Government is engaged in a public campaign to destroy student associations on university campuses throughout Australia. This issue is particularly relevant to me as a member of the Charles Sturt University Council. That university has 45 campuses across New South Wales. The Minister for Education, Science and Training, Mr Nelson, has resurrected legislation from 2003, which is being trumpeted by the Prime Minister. It is urgent to discuss this matter now because the Federal Government is set to debate it on 1 July when it gains a majority in the Senate and can do what it likes. Like many people, I do not believe the Prime Minister's promise that he will exercise that power responsibly.

This motion is urgent because student associations the length and breadth of this country are united against this legislation. They are running a campaign and drumming up support, particularly in regional centres where these community associations play an important role not only in university life but in the life of the community. We cannot wait until the clock ticks over to 1 July. We must stand up now and tell Brendan Nelson and John Howard that this is not on and that we support the university campuses. We must build the campaign in the community so that the Federal Government gets the message and does not exercise its rampant power in the Senate after 1 July to decimate or wipe out student associations. The Federal Government is trying to make

it look as though it is union bashing. We know those opposite support that too. It is not about a mob of students protesting on campuses to get up the Prime Minister's nose—our universities are one of the birthplaces of free speech and we do not have to agree with the message. We must debate this issue now.

[*Interruption*]

I would not expect someone like the honourable member for North Shore, who was born with a silver spoon in her mouth, to understand where I am coming from. This issue is urgent in communities such as ones that I represent and we must debate it now. I commend the motion urgently to the House.

Land Tax

Ms PETA SEATON (Southern Highlands) [3.51 p.m.]: We must debate land tax urgently today because Labor's land tax and vendor duty is crippling our economy in New South Wales, cutting New South Wales jobs and hitting mum and dad investors across the State, including each and every electorate represented by Labor members. A debate on this motion will give every member of this House the chance to stand up for the 500,000 mum and dad investors who currently pay about $1,000 each and every year to Premier Bob Carr through Labor's land tax. This is the land tax that the Premier does not want to pay: He fled the jurisdiction and invested in New Zealand.

Mr Steve Whan: Point of order: The shadow Treasurer clearly does not intend to establish why her motion is urgent, so perhaps she can tell us why she supports a tax rate of 4 per cent, or the policy announced last year or the year before, and how she will pay for the Leader of the Opposition's $9 billion black hole?

Mr DEPUTY-SPEAKER: Order! There is no point of order. The honourable member for Monaro will resume his seat.

Ms PETA SEATON: The honourable member for Monaro has 2,372 land tax payers in his electorate.

Mr John Brogden: He won't stand up for them.

Ms PETA SEATON: No, he will not. He will vote against the Opposition. Yesterday the Victorian Labor Treasurer boasted that Victoria is attracting investment and growing at the expense of New South Wales. This motion is urgent because yesterday's building approvals figures revealed that building approvals in New South Wales have dropped by 30 per cent, affecting jobs in the construction industry and the building industry. But building approvals increased in Victoria, South Australia and Western Australia.

Mr Gerard Martin: They dropped everywhere.

Ms PETA SEATON: No, they did not. They did not drop in Victoria, South Australia or Western Australia. Government members should get their facts right. The New South Wales budget is in deficit by at least $684 million and will get worse as land tax and vendor tax cut deep into New South Wales jobs and economic activity, including the housing and building sectors in Queanbeyan.

Mr Steve Whan: Point of order—

Mrs Shelley Hancock: Get back in your box.

Mr Steve Whan: Mr Deputy Speaker, please put a stop to those rude comments from the other side of the Chamber; they are very distracting. The honourable member for Southern Highlands has been speaking for slightly more than two minutes and she has not yet justified the urgency of her motion. She is arguing the case, not establishing the urgency of her motion. I ask you to direct her to explain why her motion is urgent.

Mr DEPUTY-SPEAKER: Order! The comments of the honourable member for Monaro have some validity. The honourable member for Southern Highlands will explain to the House why her motion should have priority.

Ms PETA SEATON: Indeed. My motion is urgent because the people of Monaro rank No. 35 out of 622 New South Wales postcodes in terms of the highest number of land tax payers. It is urgent because land tax is driving up rents in New South Wales, as investors try to recover some of their costs. According to the Victorian Treasurer, taxpayers will be $1.2 billion better off in Victoria than in New South Wales. Yesterday the New South Wales Treasurer refused to say that he would cut New South Wales property taxes. Why?

Mr DEPUTY-SPEAKER: Order! The House will come to order.

Ms PETA SEATON: It is urgent because Bob Carr is in denial about the state of the economy and the impact of property taxes. Having this debate would give the honourable member for Londonderry, the honourable member for Miranda—that newfound friend of the Left—and members representing the electorates of Swansea, Monaro, Camden and Parramatta the chance to side with us and stand up for land tax payers in New South Wales.

Mr Alan Ashton: Point of order: I know that the honourable member for Southern Highlands is trying to make an impression up that end of the front bench but she is not arguing why her motion is more urgent than that of my esteemed colleague the honourable member for Bathurst.

Mr DEPUTY-SPEAKER: Order! I again ask the honourable member for Southern Highlands to explain why her motion should have priority.

Ms PETA SEATON: I certainly will. This matter is urgent because, according to Australian Taxation Office statistics, the number of land tax payers in Liverpool has exceeded 5,000. If we debate this motion today it will give Labor members a chance to stand up for land tax payers in their electorates. It will give members who represent the electorates of Liverpool and Wentworthville and those who represent the areas of Bossley Park, Campbelltown, Menai, Hoxton Park, Maroubra—which is the Premier's own electorate—Blacktown, Randwick, Five Dock, Penrith, Sutherland, Caringbah, Engadine, Bondi, The Entrance, Concord, Bexley, Queanbeyan, Ryde and Seven Hills and the honourable member for Coogee the chance to stand up for their electorates. It will give the honourable member for Miranda the chance to stand up for land tax payers in Oatley. This motion is urgent because there are 1,800 land tax payers in Terrigal. I wonder who they might be. It is urgent because it will give the honourable member for Swansea the chance to stand up for land tax payers in Belmont. [*Time expired*.]

Question—That the motion for urgent consideration of the honourable member for Bathurst be proceeded with—put.

The House divided.

Ayes, 48

Mr Amery	Ms Hay	Mrs Paluzzano
Ms Andrews	Mr Hickey	Mr Pearce
Mr Bartlett	Mr Hunter	Mrs Perry
Ms Beamer	Mr Iemma	Mr Price
Mr Black	Ms Judge	Ms Saliba
Mr Brown	Ms Keneally	Mr Sartor
Ms Burney	Mr Knowles	Mr Scully
Mr Campbell	Mr Lynch	Mr Shearan
Mr Collier	Mr McBride	Mr Stewart
Mr Corrigan	Mr McLeay	Mr Tripodi
Mr Crittenden	Ms Meagher	Mr Whan
Ms D'Amore	Ms Megarrity	Mr Yeadon
Mr Debus	Mr Mills	
Ms Gadiel	Mr Morris	*Tellers,*
Mr Gaudry	Mr Newell	Mr Ashton
Mr Gibson	Ms Nori	Mr Martin
Mr Greene	Mr Orkopoulos	

Noes, 36

Mr Aplin	Mrs Hopwood	Mrs Skinner
Mr Armstrong	Mr Humpherson	Mr Slack-Smith
Mr Barr	Mr Kerr	Mr Souris
Ms Berejiklian	Mr Merton	Mr Stoner
Mr Brogden	Ms Moore	Mr Tink
Mr Cansdell	Mr Oakeshott	Mr Torbay
Mr Constance	Mr O'Farrell	Mr J. H. Turner
Mr Debnam	Mr Page	Mr R. W. Turner
Mr Draper	Mr Piccoli	
Mrs Fardell	Mr Pringle	
Mr Fraser	Mr Richardson	*Tellers,*
Mrs Hancock	Mr Roberts	Mr George
Mr Hartcher	Ms Seaton	Mr Maguire

Pair

Miss Burton Ms Hodgkinson

Question resolved in the affirmative.

VOLUNTARY STUDENT UNIONISM

Urgent Motion

Mr GERARD MARTIN (Bathurst) [4.05 p.m.]: I move:

That this House:

(1) calls on the Federal Government to immediately withdraw the Higher Education Support Amendment (Abolition of Compulsory Up Front Student Union Fees) Bill 2003;

(2) notes the devastating impact the proposed laws would have on New South Wales student associations, who provide a range of valuable services such as academic advice and support services, financial and legal advice, accommodation support and sport, recreation and entertainment services; and

(3) further notes the contribution student associations make to the economic, academic, cultural and recreational life on university campus and local communities, particularly in regional New South Wales.

This legislation should be exposed for what it is: a shabby, union-bashing exercise by the Federal Government, particularly the Minister for Education, Science and Training, Brendan Nelson, who is backed by people such as Tony Abbott and the Prime Minister. The Federal Government has had this legislation since 2003 and it has now decided, with the right numbers in the Senate, to set the scene and start the public relations exercise and tell us that it is all about getting rid of the supposedly scruffy violent protesters who are occasionally seen on television.

Although the word "union" is used, in actual fact we are talking about associations. Many honourable members on this side of the Chamber recognise the importance of universities in our areas. I am a member of the University Council of Charles Sturt University, which has campuses throughout country New South Wales in Dubbo, Albury on the Victorian border, Wagga Wagga, Bathurst and Orange, and also in Canberra. I have received a submission from the Students Association Bathurst campus. Charles Sturt University, Bathurst, has 3,000 internal students and 4,500 distance Education students who are remote to the campus, all of whom are members of the students association and receive benefits in one way or another. They pay a compulsory fee.

Mr Andrew Constance: What is the fee?

Mr GERARD MARTIN: It is $134 a semester. To demonstrate their importance to the local economy, in 2004 the Students Association Bathurst had an annual income of just under $2 million, of which more than $1 million was generated from student fees. The larger part of that income is spent in Bathurst, so by any definition it is quite a significant small business in a country town. The students association has 13 full-time employees and about 40 casual employees. The range of services provided at the Bathurst campus—which would be common to campuses throughout New South Wales and Australia—include academic advice and support services, advocacy for students with problems, and complaints handling. Remember, many of these students are young people who are just out of school and perhaps not wise in the ways of the world.

The student associations also provide financial and legal advice, assistance with Austudy, accident insurance, scholarships and special grants. In other words, associations help students with all those sorts of matters to make their progress through tertiary education easier. Accommodation support is particularly important at campuses such as at Bathurst, Wagga Wagga, Lismore and so on. Many of the Bathurst students come from the metropolitan area and do not have friends or family in Bathurst. The accommodation support service provided by the student association therefore is quite vital, particularly in relation to tenancy advice and advocacy services for students in accommodation off campus.

Another important aspect is sport, recreational and entertainment services. There is no question that many of those services, particularly sport and recreation, would not be available at universities if it were not for the student associations. They organise football competitions as well as drama and cultural activities, along with a whole host of recreational activities. Admittedly, the student associations provide those services using funds raised by a compulsory fee. But might I relate what happened when a conservative government action in

Western Australia in the 1980s abolished these compulsory fees at the University of Western Australia. That caused an 85 per cent drop in income to the student association, with the consequent decimation of services that had been provided on that campus. It was only intervention by the Hawke and Keating governments that restored the compulsory fees and consequently the student services at that university. That was a classic example of how this Commonwealth legislation will impact on university campuses.

This is not an issue about students demonstrating and getting up the nose of conservative governments, which the Prime Minister and Nelson, Abbott and company would have us believe. It is about student associations, legitimate organisations that operate almost as a small business on campus in providing a range of services—services and infrastructure on campus that the private sector would not be able to fund. The Australian Vice-Chancellors Committee is opposed to this attempt by the Federal Government. Lest honourable members would think I am biased, I quote Shane Manners, the General Manager of the Charles Sturt University Students Association at Bathurst, which is well-recognised as an administrator throughout Australia:

> This is not an argument about compulsory student unionism, rather it is about the collection of a compulsory fee for the provision of a vast range of highly valued services and benefits to the entire student body of this university which is currently under extreme threat from this dreadful piece of legislation.

We also know, from the urgent debate that took place in this House yesterday, the threat posed to universities themselves by the Federal Government funding formula. We know what happened in the case of the University of Newcastle. I am sure the Minister for Regional Development would talk about the wonderful university in his electorate. This is not a union-bashing exercise. If student associations are decimated, as they will be if this Federal legislation is passed, universities will not be able to pick up the funding deficit that will result. The sandstone universities on this side of the Blue Mountains, such as Sydney, La Trobe and Monash, may well be able to provide that funding. But regional universities, whose finances are constantly under threat, certainly will not be able to find the millions of dollars needed to fund the provision of these vital services.

The services that I listed a moment ago are not luxuries or excesses for students. These are basic services that make academic life possible for many of our students, particularly those living away from home. I would think that would include most students at regional universities. The honourable member for New England would be better able than I to talk about the detail of that issue. This is an issue that is core to the survival of university campuses. We know the Federal Government is great at forcing universities to charge fees. Already it has foist great imposts on university students by its huge hikes in Higher Eduction Contribution Scheme fees, 25 per cent in most cases, in the past couple of years.

Any attack on student associations based on the philosophical view that nothing should be compulsory is nonsense. All student associations in Australia have a conscientious objectors provision, enabling those who do not want to pay the fees to go through a certain process. It may be argued that external students do not get the same value from their compulsory fees as do students who are on campus full time. We on the Labor party side think that we should all make a contribution for the greater good, without necessarily getting a 100 per cent return in benefits for ourselves. That philosophy is probably foreign to those on the Coalition side. Let us put to rest this fanciful notion that there is something objectionable about compulsory membership of student associations. It is essential that the community stand up and tell the Federal Government that its proposal is not acceptable. We cannot allow the decimation of these student organisations because that would have a dramatic impact on not only the universities but the communities they serve. [*Time expired*.]

Mr DONALD PAGE (Ballina—Deputy Leader of The Nationals) [4.15 p.m.]: The Coalition will not be able to support the motion because the issue is one of choice.

Mr Richard Torbay: That is a rubbish argument!

Mr DONALD PAGE: The honourable member will have his chance to take part in this debate. The honourable member for Bathurst asserted that the issue here is not compulsory unionism. He said that the Federal Government proposal would threaten the very survival of the universities themselves. The issue is about compulsory unionism, and the Commonwealth proposal will not threaten the survival of universities. The 750,000 Australian university students should have the right to join or not join a university union. That should not be compulsory for those attending university. Those who enrol at Australian universities to study for a degree should not be forced into union membership or compelled to pay union fees.

From 2006, no student will be forced to join a student organisation, union or guild or pay a fee to an institution for non-academic amenities, facilities or services. This is the twenty-first century. Union membership

should be voluntary, and services should not be propped up by the compulsory appropriation of students' hard-earned money. Australian students currently pay between $100 and $590 a year in union fees as a condition of enrolment. Those fees are unconnected to students' academic courses and are charged with no regard for their ability to pay.

In 2004, student unions acquired more than $160 million in compulsory fees from Australian full-time university undergraduates. At the top of the list in New South Wales is the University of Sydney, whose 26,517 students were forced to pay $14.2 million. I believe the University of New South Wales was second on the list of universities that charged high fees, at $502, with the yield to the university being $10.13 million. I think it is important to point out at this stage of the debate that just because a compulsory fee is not being charged does not mean that services will not be delivered at those university campuses. It does mean that services in demand by students will continue to be provided because the students will be able to pay a fee to receive a service at a level that is directly related to the fee they pay.

I studied at the University of New England. The honourable member for Northern Tablelands knows the University of New England. In those days fees were compulsory, but there were many services on campus that I did not utilise. I would have been more than happy to pay directly for the services that I thought were important. I concede that universities are not only about academic activity, but in this day and age we need a nexus between what students pay in fees and what they receive in services. The compulsory model that we have had for so many years does not reflect that. Student union representatives regularly claim that compulsory fees fund services. However, they do not mention that facilities, allowances and air travel for student union officers are also funded by fees.

Mr Gerard Martin: Here we go!

Mr DONALD PAGE: The honourable member for Bathurst does not like it, but it is a fact. Compulsory fees often fund student union officers. Many of the students who are forced to pay these fees would not realise that their money is being used for such activities. What about part-time students and external students who may never set foot on campus but who are required to pay compulsory fees for services they do not use? Earlier I was speaking with the honourable member for Bega, who made a good point: Does the honourable member for Bathurst support compulsory fees for all TAFE students on the same basis? There are organisations and similar things in TAFE colleges.

Mr Gerard Martin: That's not the same issue at all.

Mr DONALD PAGE: It is exactly the same principle. We have never accepted that the same principle applies to TAFE colleges. Those opposite should think about that. Why should a single mother training to be a nurse pay for the canoeing or mountaineering club when all she wants is a degree? Any student should have the right to be part of a sporting or social club, and the legislation provides for students to pay fees if they make that choice. The legislation will enable Australian university students to enjoy the same rights on campus as they enjoy off campus. The principle is freedom of choice. It is about paying for what you use and not paying for what you do not use. I have not the slightest doubt that services and organisations that are in genuine demand on campus will continue, because the university ethos supports the concept that university education is not only about academic education but also about organisations.

When new students arrive during orientation week organisations will actively seek them out to join their organisation, as they do now. They will approach them and say, "If you're keen on mountaineering, we're part of the mountaineering club. If you're keen on debating, there's a debating club." The legislation creates a stronger nexus between the demand for student services on campus and the ability and desirability of students to pay. It is about breaking down the tradition of compulsory unionism in this country. It is accepted across Australia that the days of compulsory unionism have passed. It is fundamental to the debate that people should have the right to either join or not join the union.

Mr Richard Torbay: It is not a trade union.

Mr DONALD PAGE: It is a university union and it is compulsory. That is the point: It is compulsory. We are not saying you cannot have your union.

Mr Richard Torbay: Yes, you are.

Mr DONALD PAGE: No, we are not. You can have your union, organisation, service guild or whatever you like. The legislation does not stop you from having anything you like on campus. The legislation

provides that no compulsory fee will be levied on students to provide for a multitude of activities, unions and service organisations, some of which are not utilised by many students. We are trying to get a closer nexus between what people pay for and what they use. There is a range of other issues that we could go into, but the fundamental issue is that universities have to modernise their administration. We debated that yesterday. They must be prepared to manage their finances effectively. The same principle applies to a compulsory fee levied on students that is not levied on the average Australian. This country has 750,000 students. Why should a compulsory university levy apply to them when they will not utilise many of the services the university provides?

Compulsory union fees and people paying for services they do not use are outdated. The Opposition is not able to support the motion. I am conscious that universities must go beyond their academic agenda. Despite what people, including the vice-chancellors, are saying, the legislation will not stop universities from providing the great raft of services they currently provide. Those opposite are shaking their heads and saying that is not true. I believe the principle we are espousing is correct: Union fees should not be compulsory, they should be voluntary. People should be prepared to pay for the things they use. Time will tell if I am wrong, but my guess is that popular and in-demand university services will continue and those who want to use them will be able to do so. They will pay something less than they pay now, with the compulsory levy being as much as $590. They will pay for what they use.

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [4.25 p.m.]: I support the motion moved by the honourable member for Bathurst and note that once again Country Labor is leading the charge on an important issue relating to regional areas. At a time when the Commonwealth should take a role in reducing skill shortages and problems with national education, it has become obsessed with its own ideological fantasy: voluntary student unionism. The Federal Liberal Party has dreamed about it, and with Senate control within its reach it can pursue this ideological side issue at the expense of regional New South Wales.

This decision will decimate regional communities in New South Wales. Where is the Opposition while this is going on? What are members of The Nationals doing to protect their communities? Why are they willing to let their communities suffer? Why are members of The Nationals not out there defending the future of their constituents? Why are they silent? We have heard a feeble and uninformed attempt to try to defend their position. There can be only one answer to these questions: The Nationals do not have the guts to fight the decision and they do not care. They have become irrelevant, cowed by the city-centric Liberals. They have demoted themselves to the role of doormat within the Coalition.

Mr Donald Page: Point of order: I ask you to draw the Minister back to the motion. Nothing in the motion talks about The Nationals. Would you please ask the Minister to return to the leave of the motion.

Mr DEPUTY-SPEAKER: Order! I am sure the Minister is about to return to the substance of the motion.

Mr DAVID CAMPBELL: The last time I checked, The Nationals were part of the Federal Government. The motion refers to the Federal Government. It is obvious that The Nationals in New South Wales do not want a bar of the decision. The feeble speech of the honourable member for Ballina and his point of order make it obvious what is going on. Although The Nationals in New South Wales have demoted themselves to the role of doormat within the Coalition, although the Opposition are silent and will not stand up for their local communities, their counterpart in Queensland, Senator-elect Barnaby Joyce, has not held back. He has spoken out on national television about the Commonwealth by saying that a compulsory fee is needed to support sporting facilities.

By turning back the clock the Federal Government has taken political point scoring to new heights. This decision will impact directly on the people of the Illawarra. The University of Wollongong is an internationally recognised tertiary education institution that has twice won acclaim as Australia's University of the Year. Its research, from the latest in bionic ear technology to welding, makes it a knowledge leader both nationally and internationally. It is a source of great pride for the Illawarra community and it underpins the region's economy. Its outreach campuses provide economic benefits to communities in Nowra, Batemans Bay, Moss Vale and Loftus. Overseas its Dubai campus in the United Arab Emirates is helping to build its reputation in the Middle East.

Mr Gerard Martin: It has a campus in Bega.

Mr DAVID CAMPBELL: The honourable member for Bathurst is right, and that is why he has to stand up in this debate for that campus of the University of Wollongong. He has to say what we on this side of the House are saying: regional communities will suffer as result of the Commonwealth Government's proposal. It is up to the honourable member for Bega to explain to the Bega community why he is not prepared to support the services offered by the University of Wollongong, and why he is not prepared to support the delivery of services through UniCentre. It is up to him to come forward because the University of Wollongong injects approximately $475 million a year into the local economy. That is $1.3 million a day that is being injected into businesses and pay packets in the region. In addition to that, the annual $350 student union fee that is paid by each student contributes $5.5 million worth of services and facilities to the community.

Compulsory fees help to fund services such as sports facilities; food, beverage and child care services; libraries, book stores and counselling services; medical, legal, employment and accommodation services, as well as recreational facilities. I confidently assert that without student union fees, the future of one of the Illawarra's most respected child care centres, the University of Wollongong Kid's Uni, will be seriously threatened. The move by the Commonwealth Government to voluntary student fees has left the centre fearing that it will be forced to close or be taken over by a profit-making organisation. There are currently 40 staff working at the centre. I assure the Commonwealth Government that the staff are greatly concerned about their future. Non-metropolitan universities inject more than $800 million a year into regional economies. Regional universities are directly responsible for 28,000 jobs. Regional communities want the New South Wales Opposition to support them and to protect their jobs. [*Time expired*.]

Mr ANDREW CONSTANCE (Bega) [4.30 p.m.]: It is ironic that the Minister has advanced a good argument to justify union fees not being compulsory. I note that he referred to the access centre in Bega, but I point out to him that students in my electorate have to pay fees for services that they cannot access because the University of Wollongong is 350 kilometres away.

Mr Gerard Martin: So?

Mr ANDREW CONSTANCE: Does that not make the point that the Minister is being ridiculous? The Minister looks like an absolute goose for making that point. I ask the honourable member for Bathurst whether the figure 2,149 rings a bell?.

Mr Gerard Martin: No.

Mr ANDREW CONSTANCE: That figure means nothing to the honourable member for Bathurst, so I will point out that 2,149 is the number of people in his electorate who pay land tax. This afternoon the honourable member for Bathurst voted against debate on land tax reform.

Mr Gerard Martin: Point of order: I ask you to bring the honourable member for Bega back to the debate. We are talking about student fees, not land tax.

Mr ACTING-SPEAKER (Mr John Mills): Order! At this stage I will not rule against the honourable member for Bega. He may make passing reference to topics other than voluntary student unionism, but "passing reference" is the key phrase.

Mr ANDREW CONSTANCE: That figure represents the number of people who have to pay land tax in the Bathurst electorate, and the honourable member for Bathurst did not stand up for their rights this afternoon. I find it incredible that the honourable member for Bathurst prefers instead to debate legislation that will be before the Australian Parliament after 1 July. The people of Australia elected the Australian Parliament, and that includes the Senate, which was elected by a majority of Australians. We will control the numbers in the Senate.

Mr Gerard Martin: We?

Mr ANDREW CONSTANCE: Obviously the honourable member for Bathurst does not like that point. Today's debate proves that the honourable member for Bathurst and the Minister for the Illawarra will be happy to have compulsory fees set for TAFE students. If there is any consistency in the argument they advance, it must be that they are in favour of compulsory fees of hundreds of dollars being imposed on TAFE students. That debate on TAFE has not taken place in this House. We do not hear anything about students who are having their courses cut at various TAFE colleges throughout the State because Labor members are more interested in

debating some philosophical point about legislation that will be before the Australian Parliament in the next few months. If Labor members examine the fees that students pay at regional and metropolitan universities in New South Wales, they will know that the student fees at Charles Sturt University are $272. Earlier the honourable member for Bathurst said the fees were $130, which is completely wrong.

Student fees at the Macquarie University are $356; at the Southern Cross University, they are $349; at the University of New England, they are $370; at the University of New South Wales, they are $502; at the University of Newcastle, they are $364; at the University of Sydney, they are $590; at the University of Technology, Sydney, they are $420; at the University of Western Sydney, they are $364; and at the University of Wollongong, the fees are $351. Labor members will also find that the majority of students believe they do not get value for the money they compulsorily fork out to pay for services that many of them do not have access to. The critical argument advanced in support of retention of student fees relates to the loss of membership and services. The fact of the matter is that through voluntary payments, student associations will be able to provide services that students value, without having to subsidise student unions.

Why should the students at Bega have to fork out fees and subsidise student services at a campus that is 350 kilometres away when they do not have access to those services and cannot enjoy the privileges associated with those services? When student unions lose compulsory fees, it will be incumbent upon student unions and guilds to deliver services in a more efficient manner to reflect the demands, needs and wants of students. In response to the compulsory element which is part of the nature of a union, the Federal Government has correctly pointed out the right to a freedom of association. However, is it right for a student to have to fork out a fee that goes to the National Union of Students and is then directed straight into the coffers of the Australian Labor Party so that members of the Labor Party can use those funds to argue their policies during political campaigns? The honourable member for Bathurst does not like that argument, but the fact of the matter is that more than $250,000 was put up by the National Union of Students. [*Time expired*.]

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [4.35 p.m.]: I join my colleagues the honourable member for Bathurst and the Minister for the Illawarra in supporting the motion. It is incredible to hear the tale of woe and the excuses proffered by the Opposition. I ask the honourable member for Bega to have a chat to his Uncle Malcolm, who is the bursar at Southern Cross University. He will be able to tell him exactly what the abolition of compulsory student union fees will mean. I will deal with that in more detail shortly.

The Opposition seems to have some type of hang-up, as evidenced by the point of order taken by the honourable member for Ballina, about the definition of the word "union". Coalition members seem to have forgotten that the students union is not a trade union or an industrial organisation. It is not an organisation of workers; rather, it is simply an association of students. I point out that the word "union" can be traced to one of the oldest universities in England. Who would accuse the Cambridge University Student Union of being linked to the trade union movement? Yet there are student unions in the United Kingdom.

I ask the honourable member for Ballina to reflect upon his own university education and consider the benefits he derived from being a member of the student union at the University of New England when he played sport and enjoyed engaging in other activities. I feel sure that at that time he enjoyed considerable benefits that were provided by the student union. I am sure that when he was a university student there were other students who did not play rugby, but they nevertheless contributed and had the benefit of other services provided by student union fees. That is the point of this debate. Students of all universities, particularly regional universities, contribute to facilities that are able to be accessed by all students, and in most cases the facilities are fully utilised.

Southern Cross University, which has campuses in Coffs Harbour, Lismore and Tweed Heads, is most concerned about the implications of the Federal legislation that will be passed by the Australian Parliament. Any reduction in funding to universities will result in a loss of jobs and services, and the loss of student services revenue will have an adverse impact. We have already seen what has happened at the University of Newcastle as well as what is likely to happen at Charles Sturt University and the University of Wollongong in the Illawarra, and we know the impact that the loss of jobs has on the economies of local towns.

In towns in the electorates of Lismore and Ballina, where most employees of Southern Cross University live, the two major student organisations employ 23 permanent staff and 170 casual staff. If the Federal Government's legislation is implemented, most of those people will lose their employment. Since those student bodies will rapidly lose their capacity to budget for existing services, the impact will soon be felt. In other words, the student organisations are already making plans to trim their budgets and put people out of jobs.

The cuts will come in straightaway, including $1.8 million for Southern Cross University student support services and facilities.

Mr Andrew Constance: Why should there be immediate cuts?

Mr NEVILLE NEWELL: The honourable member for Bega asked why there will be cuts straightaway. That is because the universities have to plan ahead; they have to lay off staff by redundancies and other means. The universities will not just kick someone out the door, as the Tories want to do. They will not boot someone out the door, and just say "Goodbye". The universities have responsibilities and will outlay money. If the honourable member for Bega wants a further explanation about that he should ask his Uncle Malcolm exactly what it all means. He will let him in on the secret of how the system works.

The honourable member for Ballina took a point of order objecting to the Minister for the Illawarra referring to the National Party. The honourable member for Ballina is a member of the Federal Coalition. He should not forget that, he cannot walk away from it and he has to take responsibility for what the Federal Government is doing. The Coalition is in government and should not throw up red herrings about that. Coalition members have to be prepared to stick up for the Federal Government or stand up to it and ensure that this whole sordid business of pulling back services for regional universities does not go ahead. I know that there is not a snowflake's chance in hell of the legislation not going ahead at the end of June, but at least Coalition members should fight for their regional universities and ensure that the legislation falls on its face. [*Time expired.*]

Mr RICHARD TORBAY (Northern Tablelands) [4.40 p.m.], by leave: I thank honourable members for the opportunity to contribute to this debate. For those who may not be aware, prior to becoming a member of this House I worked for the University of New England Union for 20 years in a range of positions right through to chief executive officer. I have listened to the debate and I must say that it is rare to hear the honourable member for Ballina make a contribution that is so ignorant of the topic. I am sure that was because he was following the blind ideology put forward by the Federal Coalition, rather than addressing the issues at his university, the University of New England, and how the proposal has been slated by the Vice-Chancellor, the Australian Vice-Chancellors Committee, the community and, of course, the membership organisations that have participated in the debate.

It would have been good to understand the issues raised by the honourable member for Ballina based on his experiences at the University of New England. It is clear that members of the Opposition and members of the Federal Government have been spooked by the word "union". The word "union" is driving a great part of this debate, and some members have not understood what it means in this context. I am happy to deal with those issues, but it is utterly ridiculous to argue that this debate is about choice. To argue that student unions should become voluntary, we might as well argue that we are promoting the concept of voluntary council rates. In regional universities students come from distant areas. They go to the campus to enjoy an academic experience, as well as a wider university and community experience.

It is appropriate that a range of services be made available and that students be invited to avail themselves of them. If one went to a town, one would expect that town to have a swimming pool, sporting fields and a democratically elected council to take up advocacy issues on behalf of the community. That is no different from the membership organisations from which students expect the same level of service, because they have moved away from home to be educated in these fine universities. A straw poll carried out in every electorate asking "Would you prefer voluntary council rates?" would result in an overwhelmingly positive response. I ask the honourable member for Ballina, and other members: Who will maintain the social, cultural and sporting facilities? Who will maintain the sporting fields?

In answer to that question, I advise that the Vice-Chancellor at the University of New England [UNE] at Armidale has said that $200,000 will need to be diverted from the academic allocation into non-academic services to maintain the university's sporting fields. I could give a range of examples of cost shifting, and that is why those with courage stand up for the delivery of services rather than being spooked by the word "union". To hear the honourable member for Ballina use the word "union" in the context of a trade union indicates that he is utterly ignorant of the subject. I suspect most people who take on a blind ideological position are also ignorant of the total picture. This debate is about service delivery, about making sure that services and facilities are available, particularly in regional communities.

Mr Thomas George: You were better start off with the UNE.

Mr RICHARD TORBAY: I proudly highlight the UNE. It provided a cinema for both the university and the wider Armidale community when commercial interests failed to do so because it was unviable. The

UNE proudly still operates that cinema. Contrary to the interjection of the honourable member for Ballina, who said, "If I used it I would pay for it", when the students were surveyed they said, "Of course, we should have a cinema that is accessible to university members and the wider community." It is good that the university makes a range of its services available to the wider community. A forum on voluntary student unionism was held in Armidale. Many Liberal and Nationals members were invited to take part, but not one turned up to debate the issues on their merit. The Liberal-controlled student organisations gagged debate to stop the radio station from broadcasting it. [*Time expired.*]

Mr GERARD MARTIN (Bathurst) [4.45 p.m.], in reply: I note the honourable member for Wagga Wagga, the honourable member for Lismore and other members of The Nationals who have campuses in their electorates have not contributed to this debate. That surprises me.

Mr Donald Page: Point of order: The honourable member for Bathurst knows that the standing orders provide that only a certain number of members can speak in debate on an urgent motion.

Mr GERARD MARTIN: Members can seek leave, you know that. Sit down!

Mr ACTING-SPEAKER (Mr John Mills): Order! I am listening to the point of order.

Mr Donald Page: To suggest that the honourable member for Lismore and others who are in the Chamber are not interested in this subject is ridiculous. It is the standing orders that do not allow them to speak.

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Ballina is correct in what he says. However, it is not a point of order.

Mr GERARD MARTIN: The honourable member for Ballina has exposed the hypocrisy. This blind ideological argument has been nurtured by members on the other side of the House. If anyone should have a good understanding of the matter, it is the honourable member for Northern Tablelands. The rhetoric of the honourable member for Ballina was matched by that of the honourable member for Bega. We have come to expect that from him in his short time in this place. But not one bit of empirical evidence has been provided. Members opposite are ignoring what happened at the University of Western Australia, which lost 85 per cent of its income. How the hell could any organisation continue to provide services with a loss of 85 per cent of its income? Another organisation that cannot be said is a lapdog of student associations is the Australian Vice-Chancellors Committee [AVCC].

Mr Andrew Constance: Point of order: I have heard enough. Does the honourable member for Bathurst support fees for TAFE students?

Mr ACTING-SPEAKER (Mr John Mills): Order! The honourable member for Bega will resume his seat.

Mr GERARD MARTIN: The matter relating to TAFE students is completely different from this debate. I am happy to debate that at a separate time. The AVCC said that it believes that it is in interests of both universities and their students that the process relating to exemption from membership of student organisations be clearly defined. It deals with conscientious objectors. I have dealt with conscientious objectors. The Australian Vice-Chancellors Committee also states:

> It is essential that the student organisations continue to contribute to the ethos of the universities in this way by being able to levy this compulsory fee. To do so, however, they must have adequate funds.

That is the way in which student organisations will obtain funds. It is nonsense if we expect everybody to share the cake equally. Charles Sturt University has students all over Australia and the world. In one way or another they all have access to services. The honourable member for Northern Tablelands pointed out that we as taxpayers do not expect everyone who makes a compulsory contribution to society to receive back 100 per cent. Government members take the view that those who need services most should receive the greatest benefit. The public sector cannot fund a lot of the services that are being provided at universities, such as child care centres, food, and so on. Student associations are beholden to provide services for students.

Opposition members do not want to embrace these issues. Their blind ideological stance is to view this as compulsory unionism. We are talking about student associations that are service organisations or small businesses. Given the environment in which they operate, they need a degree of subsidy. So there is that cross-

subsidy between universities and there are the fees that students pay. For the benefit of the honourable member for Bega, the figures I gave relating to Charles Sturt University are correct. To a student, $134 per semester might appear to be a large amount, but when we consider what services are being delivered it is good value.

Universities in the Bathurst electorate are talking about taking $2 million out of the community, depleting those services and leaving students poorer for the experience. The honourable member for Ballina said, "We will see what happens. We will take a chance." The University of Western Australia went down that road because people in that State share the same ideologies as Opposition members. That university lost 85 per cent of its income and the services on that campus were decimated to the detriment of students, and no-one else. I commend the motion to the House.

Motion agreed to.

CATTLE TICK MANAGEMENT

Matter of Public Importance

Mr THOMAS GEORGE (Lismore) [4.52 p.m.]: I wish to debate the management of ticks in New South Wales. The Minister for Primary Industries in the other place said that the tick fever problems being experienced in this State are a beat-up by The Nationals, and particularly by the honourable member for Lismore—me. We have had tick fever breakouts in the northern rivers region, both at Carool and at Woodenbong in the old Kareela area. We have in place an 80-year-old tick program. Government and cattle producers in the northern rivers region have co-operated to protect the rest of the State from tick fever and tick infestations.

Recently we saw a breakdown of that system. Minister Hallam dismantled that program in the 1980s and we are still suffering the consequences. The Labor Party is responsible for the current tick fever problems. I am pleased that the honourable member for Tweed is in the Chamber. On Wednesday evening and Thursday evening last week I convened two public meetings. I have received phone calls, emails and faxes from cattle producers in the northern rivers region expressing concern about tick outbreaks and infestations. They want to know what to expect in the future. Approximately 130 producers attended the meeting that was convened in the Tweed area. The organisers were shocked that so many people in the area attended the meeting.

Four motions were moved at the Murwillumbah meeting. Producers called on the Minister for Primary Industries to establish an adequate buffer zone to be negotiated with producers. They also called on the Minister not to allow the use of vaccine on cattle except for the express purpose of moving stock into affected areas in Queensland. That is the current policy today. It is of paramount importance to producers that the Minister should not allow the use of vaccine. Producers called on the Minister not to allow the movement of cattle from Queensland onto New South Wales properties unless they were blood tested and free of tick organisms. However, cattle going direct to slaughter are to be exempted.

Producers also moved a motion of no confidence in the Minister for Primary Industries and the New South Wales Department of Primary Industries for continuing to pursue their present policies relating to the cattle tick program. Those motions were fully supported by every person at that meeting. On the next night a meeting was held in Casino, and approximately 150 producers attended. The same motions were moved at that meeting and they were unanimously supported, with the exception of one member of the tick advisory committee. Producers called on the Minister for Primary Industries to pay for the full cost of chemicals being used on properties under quarantine. It was evident at both meetings that manned border surveillance was required from Killarney to the Tweed, as present surveillance measures are not working.

As I said, cattle producers have co-operated with the department over a number of years to reduce the size of the buffer zone. In the 1980s, 25 per cent of the agricultural budget in New South Wales was spent on the tick control program. The Department of Primary Industries now has a reduced budget, and the Chairman of the Board of Tick Control announced at the meeting that 1 per cent of the department's budget is now being spent on tick control. The Government has cut back funding for this program. It has taken short cuts, reduced the buffer zone and lessened border surveillance. As a result we are now seeing tick infestation and tick fever in these areas.

Last Wednesday on ABC's *Country Hour* the Minister for Primary Industries answered a few criticisms levelled at him and his department by Mr Colin Brooks, a cattle producer in the Tweed, who chaired the

Wednesday night meeting in Murwillumbah. I have been concerned about this issue for two years and I have referred to this problem in the House. Producers are concerned about the use of tick vaccine in New South Wales. The cattle producers whose livelihoods are affected do not want the vaccine to be used. I have been told that the board has recommended to the Minister the use of the vaccine, but board members assure me that they have not done so. They told me they had to vote on the issue with no notice and that although they opposed the proposal the vaccine's use was recommended to the Minister anyway.

Board members told local producers who rang them for advice that they had been gagged and could not discuss the issue. I told John Williams, the Chairman of the Board of Tick Control, that I intended to call a meeting and I invited him and Peter McGregor to talk to producers about the issue because board members could not discuss it. The Minister has refuted the gagging claim. Four board members attended the meeting on Thursday night in Casino. One member said that board members had not been gagged and prevented from discussing the issue. However, another said, "Yes, we have been gagged; I don't know where that bloke was at the meeting", and the other two members present did not disagree with that person. I am proud of those members for making that admission. We have been blaming the board for recommending use of the vaccine, but during the radio interview the Minister stated clearly that none other than the honourable member for Tweed had suggested its use to him. I am absolutely disgusted that a gentleman who is involved with cattle producers in the Tweed and Richmond areas—

Mr Neville Newell: I hope you've got your quote right.

Mr THOMAS GEORGE: I have a tape of the interview, which I will play to you. That is what the Minister said: the honourable member for Tweed suggested the use of the vaccine. He should be absolutely ashamed of himself. Our livelihoods are at stake, not his. He should stand up for cattle producers in his electorate.

Mr NEVILLE NEWELL (Tweed—Parliamentary Secretary) [5.02 p.m.]: If the Minister for Primary Industries said that, I will ask him to retract the statement because it is not correct. This is an important issue and I thank the honourable member for Lismore for raising it in this place and giving me the opportunity to speak to it. The vaccine debate came to a head recently when the Board of Tick Control approached the Minister to alter regulations with regard to current control measures under the cattle tick program.

I will discuss some aspects of the biology and epidemiology of the disease so that honourable members can understand the issue better. The beef and dairy cattle industries in tick-affected areas are worth about $2 billion in New South Wales and Queensland. They are critical industries and the Government must do all it can to protect them. The honourable member for Lismore and past Agriculture Ministers have pointed out that the tick control program has been in place for a long time. The program has had some changes, particularly in the past 10 years, that have enabled many properties to be removed from quarantine and declared tick free. Such properties are no longer subject to the restrictions imposed upon properties that remain within the quarantine area in the far north of the State.

The problem is not so much with the cattle ticks—although, like bush ticks and paralysis ticks, they can weaken the animals and cause lack of thrift and even death if they ingest enough blood—but with the disease they transmit. This is commonly referred to as tick fever or red water. Several other diseases cause symptoms similar to red water. The Board of Tick Control recently voted, four members to three, to recommend to the Minister a change in the regulations governing the use of the vaccine, which is currently restricted in New South Wales. It is a live vaccine that is used to treat animals that are at risk or are about to be exported to tick areas in southern Queensland. Immunity takes three or four weeks to develop after vaccination, which gives the animals some protection.

The Board of Tick Control recommended—the vote was four to three so the result was certainly not unanimous—that the vaccine be made generally available in New South Wales when there is an outbreak of red water. Cattle tick outbreaks in this State are generally contained within a small area and tick infestations are picked up via surveillance as cattle move through the stockyards. I share the concern expressed by the honourable member for Lismore and producers about the general use of the vaccine, even in areas where cattle tick outbreaks have occurred. Cattle ticks transmit red water when they engorge on the blood of cattle. Cattle ticks are vectors of the disease through their egg and nymph stages. If there were no ticks the disease could not be transmitted.

Not many animals in New South Wales carry the Babesia bovis blood parasite that causes the disease, but two outbreaks of red water or tick fever have occurred in the past two months. A chemical is used in

Queensland to control and treat tick fever, and animals that are raised in areas where the vaccine is used generally develop some natural immunity to the disease. Such cattle obviously cost more to produce. New South Wales producers are concerned because dairy and beef cattle on the North Coast have virtually no natural immunity to the organism that causes tick fever, and the use of vaccine exposes entire herds to the disease. The additional cost is another factor.

At present tick fever is controlled by the use of dips and sprays that remove ticks from the animals and by surveillance that ensures that infected animals do not leave affected properties. Today the Minister announced in the other place that an inquiry will be established to address concerns about tick fever. He said that a former member for Orange and a former Minister in Coalition governments, Mr Garry West, will conduct the inquiry into the potential use of cattle tick vaccine for emergency control only, the introduction of Queensland cattle into New South Wales, the possibility of using electronic surveillance to enhance existing border control measures, and the advisory mechanisms into the State Government. I ask honourable members opposite to have confidence in Mr West, a former member of their own party, conducting the inquiry. As he comes from Orange he will no doubt have a close affinity with some of the agricultural scientists who will be advising him.

On behalf of my dairy and beef cattle producers, I ask the honourable member for Lismore to ensure that Mr West—I have not met him, but I am sure that, as a former Minister, he has some ability—does not get duchessed by too many of those other agricultural scientists in Orange. Please ensure that he is not a member of the same golf club and cannot be got at, so that he conducts an independent inquiry. It has been pointed out to me that the Minister now claims that I suggested using the tick vaccine. I thank the honourable member for Lismore for his misinformation. I will certainly listen to the radio to ascertain how he got it wrong and I expect a correction from him in that regard.

For the benefit of Mr Garry West, the concerns of farmers are that if we are going to use the vaccine to control outbreaks of at-risk cattle—I am not suggesting I agree with it—why use it for at-risk cattle in New South Wales herds when it takes three to four weeks for the vaccine to provide immunity? Why not use present chemicals such as Imizol, which is used in Queensland to treat animals? I understand that the danger of introducing the live vaccine into that herd is that over time it will gradually increase the number of animals that have been exposed to the Babesia bovis organism. It could build to the point that New South Wales will have to use it. I agree with the point made by the honourable member for Lismore that we need to look very closely at restrictions on imported cattle into New South Wales.

Mr THOMAS GEORGE (Lismore) [5.12 p.m.], in reply: The Minister referred to this matter as a beat-up by The Nationals, so it is ironic that today he has announced an inquiry into tick fever which will cover the points I listed in the meeting last week. It could not have been a beat-up for him to react in that way. I am proud that when the Government wants a good job done it appoints someone from The Nationals; it should continue to do that. I will repeat what the Minister said about the honourable member for Tweed outside the House this afternoon so that he may take whatever action he wants. The honourable member for Tweed is saying untruths. I have a tape of the ABC *Country Hour* in which Minister Macdonald said it was suggested by the honourable member for Tweed, Neville Newell. The honourable member for Tweed will hear it on Monday morning when he speaks to the producers at his office. The tape was played at the meeting the other night and I have no doubt about what the Minister clearly said.

Mr Neville Newell: Point of order: In terms of honesty in this debate I have made it clear to honourable members opposite that if the Minister said that I will ask him to retract it. I also point out that my advice is that he did not say that.

Mr ACTING-SPEAKER (Mr John Mills): Order! I have heard enough.

Mr THOMAS GEORGE: And if I am wrong, I will retract it. The honourable members who represent the electorates of Clarence, Ballina and Coffs Harbour want to be involved in this matter because the problem has extended down the coast. None of us want to go back to the old system. No-one in this House has crown branded and dipped more cattle than I have, and I certainly do not want to go back to the old system. I agree that we should not use the vaccine, because it will create a domino effect in this State. We have heard about the four-three vote on the recommendation to the Minister and now I want to know the names of the board members who supported using the vaccine.

Discussion concluded.

Pursuant to sessional orders business interrupted.

PRIVATE MEMBERS' STATEMENTS

BONVILLE BYPASS

Mr ANDREW FRASER (Coffs Harbour) [5.15 p.m.]: Yet again I speak about the Bonville bypass. I thank Minister Costa for meeting a delegation of me, mayor Mark Troy and engineer Ken Wilson from Bellingen Shire Council, and mayor Keith Rhodes and general manager Mark Ferguson from Coffs Harbour City Council concerning not only the Bonville bypass but the Coffs Harbour bypass and general safety issues with regard to the Pacific Highway from Perrys Hill right through to Woolgoolga. Although the Minister gave us a very good hearing, I am extremely disappointed with the response so far. I said to the Minister at the meeting, especially in relation to the Bonville bypass and the road from Sapphire to Woolgoolga, that as an interim measure as a matter of urgency we need to have the road widened slightly, if necessary, to put in a dividing barrier down the middle.

Tragically since that meeting two deaths have occurred between Woolgoolga and Coffs Harbour, both of which would have been avoided, I believe, if there had been such a division. One young fellow 17 years of age coming home from work at about midnight veered across to the other side of the road in fairly heavy rain—we will probably never know what happened—into the path of an oncoming semitrailer and was killed, which was an absolute tragedy. I am certain that that accident would not have happened if there had been a divided concrete barrier or wire or whatever.

I appeal to the Minister and the Government to urgently address this issue. There have been seven deaths in two years. A woman's daughter and niece from Gosford were killed in the area that is going to be bypassed by the Bonville bypass, so not only locals but people from outside the Coffs Harbour and Bellingen local government areas are being killed on parts of that highway that I believe are somewhat treacherous. Last week the Parliamentary Secretary to the Minister for Roads issued a media release concerning Bonville that stated:

> Construction of a dual carriageway on the Pacific Highway at Bonville has been given the go ahead, Parliamentary Secretary to the Minister for Roads Eric Roozendaal said today.
>
> Mr Roozendaal said planning approval documents for the 9.6 kilometre upgrade south of Coffs Harbour would be on display from Monday 2 May to Friday 27 May.

He continued with 1½ pages of diatribe and at the end stated:

> The RTA is currently preparing contract documents to invite tenders to construct the project and property acquisitions are being finalised.

I stress, preparing the documents "to invite tenders". That is not the go ahead that he wants us to believe. The release stated:

> Planning for the Bonville Upgrade is funded by the Carr Government as part of is $1.6 billion commitment …

The Minister said at the time of our meeting that he thought the Federal Government would assist in funding a motorway on the North Coast. I said to him that if there is to be a motorway on the North Coast, this section of road should form part of it. This piece of road has been in the budget documents since 1997. The Government has now displayed planning documents. I am stumped that one of the documents on display that was covered by Mr Roozendaal's media release is a "Decision Report—2003" The other document on display is dated August last year from the director-general. I think we have been hoodwinked. I want the Minister to prove to me, the people of Coffs Harbour, the mayor of Bellingen, the mayor of Coffs Harbour and others who are concerned that he is not playing politics and risking the lives of people who travel on this stretch of road.

There have been far too many deaths on this section of road to be putting out old documentation, saying the works are in the planning process, and having the Minister say the New South Wales Government is looking for Federal Government support, when this has always been listed as a State Government road project. I am saying to the Government: Fund this work; get in and get it started; get the road barriers there now and do not mislead us. We want an allocation in the budget this year for this section of road. We want to see it started in the next 12 months. We are sick and tired of police officers, fire brigade officers and others having to go and pick up bodies on that section of road. This action is required immediately. [*Time expired.*]

BICYCLE HELMETS

Mr PAUL GIBSON (Blacktown) [5.20 p.m.]: This afternoon I wish to speak about a problem that affects not only my electorate but most electorates across the State, or for that matter across this nation. It is fair to say that the big benefits in road safety have come from the seat belt legislation passed in this State in the 1970s, random breath testing legislation in the 1980s, and legislation providing for mandatory helmet wearing by bicycle riders and motorcyclists introduced in the 1990s. Bicycle helmets substantially reduce the risk of head injury in a crash. The scientific evidence on the benefits of bicycle helmet wearing is very clear, and is quite independent of matters related to the acceptability and effects of legislation.

At the very minimum, wearing a helmet halves the risk of head injury to a bicycle rider. Head injuries are a very serious problem for bicycle riders who are involved in crashes, and come at great cost in health care to not only their families but the State as well. Non-fatal injuries resulting from bicycle accidents are grossly underreported in official road accident statistics. As a matter of fact, the number of people taken to hospital following bicycle accidents is six times the number of people recorded in official road accident statistics as attending or being admitted to New South Wales hospitals. Hospital data shows that cyclists are numerically the road users third most likely to be admitted to hospital as the result of a road crash compared to other road users, after vehicle drivers and passengers. More bicycle riders are admitted to hospital than are motorcycle riders or pedestrians.

Injury rates for bicycle riders are especially high in children and in males. At least a quarter of bicycle riders admitted to hospital, and almost half of those killed, have head injury as the single most important injury. These figures do not include multiple injuries, many of which include unrecorded head injuries. If you just consider bicycle rider crashes involving an impact with a motor vehicle, up to 80 per cent of those collisions result in a head injury to the bicycle rider. Bicycle riders admitted to hospital with head injuries are 20 times more likely to die than those without head injuries.

Mandatory bicycle helmet wearing was introduced in New South Wales in 1991. It was introduced along with a subsidy that made helmets cheaper, encouraging parents in particular to encourage their children to wear helmets when riding their bicycles. Initially, the Roads and Traffic Authority conducted regular surveys on rates of helmet wearing. Those studies showed that helmet wearing rates for adult cyclists in New South Wales rose from 26 per cent of riders in 1990 to 83 per cent of riders in 1993. The wearing rates for child bicycle riders in New South Wales went from 12 per cent in 1990 to 74 per cent in 1993. However, from the mid-1990s there have been few surveys.

No survey data on helmet wearing rates has been released by the Roads and Traffic Authority for several years now. Work has been conducted, but the results have not been released because apparently they show that the number of people, adults and children, who are wearing helmets is now lower than it was when the compulsory bicycle helmet wearing legislation was introduced in 1991. Less than 26 per cent of adults and 12 per cent of children wear bicycle helmets today. I note that Lillian Saleh reported in the *Daily Telegraph* in July 2004 that over a period of two years more than 23,000 people had been issued with traffic infringement notices for not wearing helmets.

In January 2002 the Motor Accidents Authority announced a $96,000 research project into bicycle injury rates. In February 2004 the authority published the results of stage one of that project, which showed that the number of bicycle rider injuries had not fallen in line with injuries suffered by motor car drivers and motorcyclists over the past 10 to 15 years. The Motor Accidents Authority project has, for reasons not specified, been discontinued. Serious head injuries are sustained by more than 1,000 child cyclists each year in this nation. There are no current major programs in place to address cyclist safety issues, including child cyclists, helmet wearing and so on. We have some local council and community and road education schemes, but we must go back and look at the provision of subsidies, education and stressing to parents the importance of young people wearing a helmet because that will save their lives. [*Time expired.*]

ROTARY AUSTRALIA POLIO PLUS PROGRAM

Mr ANTHONY ROBERTS (Lane Cove) [5.25 p.m.]: I would like to highlight to the House today the good work of Rotary Australia. I am, as I know many in this House are, a steadfast supporter of Rotary and the hard work that it does in our community. It was 100 years ago, in February 1905, that Rotary was formed to follow the ideal of Service Above Self. Since that time Rotary International has grown to over 1.2 million members in 166 countries worldwide. We all, at some time or another, take from society—but what better way is there to put something back than through the Rotary way of Service Above Self.

Seven years ago Rotary raised $US247 million for the eradication of the dreadful polio virus by financing the purchase of Salk vaccine for inoculations around the world. Since that time small brush fires of this crippling virus have reappeared across the world. To combat this, Rotary then began the Polio Plus program, designed to finally rid the world of not only polio but also the smallpox virus. By the end of the Rotary Centenary Year, 2005, Rotary will have raised in excess of $US600 million to this end.

A highly infectious disease, polio can cause paralysis and sometimes death. As there is no cure, the best protection is prevention. For as little as 90¢ worth of vaccine, a child can be protected against this crippling disease for life. It is the hope of the Polio Plus program that a child somewhere in the world will receive the last polio vaccination in 2005. With favourable conditions and intensive monitoring, from 2006 there will be no new case of polio anywhere. If that happens, the world can be declared polio free in 2008. It will have cost about $3.1 billion, of which Rotary has raised about $850 million. Twenty million volunteers, including the 1.2 million Rotarians, will have contributed. This is a truly remarkable effort by anyone's standard.

To support this mighty effort, the Rotary Club of Hunters Hill held a sponsored walk on 26 February this year, during Rotary's centenary week. The five-kilometre walk was from Boronia Park Public School to Clarkes Point in Woolwich, in Hunters Hill. This event was called the "Walk, Because You Can", and it received the wholehearted support of the Prime Minister, the Hon. John Howard; Minister Joe Hockey, the Federal member for North Sydney; my own support as the local member; and the support of Councillor Sue Hoopmann, Mayor of Hunters Hill. The Federal Government contributed one dollar for every dollar raised in this project.

Local schools were invited to participate and support the walk by raising or donating money. They responded with enthusiasm to this most worthwhile program. Boronia Park Public School, Gladesville Public School, Riverside Girls High School, Hunters Hill Public School, Hunters Hill High School and Ryde Secondary College have all provided sponsorship, with Marist Sisters College at Woolwich being the largest single contributor. Individual sponsors who gave generously to the event included Mr Bill Galvin, Joe Hockey, M.P., former Hunters Hill Councillor Richard Quinn and Mr Johnny Kingdom.

As I said on the day, this was an opportunity as a community to make a difference. The day began officially with Joy McKean, who, as well as being wife of the late Slim Dusty, was an early sufferer of polio, ringing the Rotary Centenary bell and officially starting the walk. As well as the many local schoolchildren and their families who walked on the day, people of all ages and backgrounds turned out in support of the walk. The total raised from the event, including the dollar-for-dollar grant from the Federal Government, was $21,637.60. This was a sterling result and one in which everyone in the Hunters Hill community, but especially Rotary, can feel proud, because in real terms this means Hunters Hill Rotary's contribution to the Polio Plus program allows for funding for vaccinations for well over 25,000 children around the world.

Much of the credit for the walk needs to go to a good friend of mine, Mr Ellis Hopper, who was very much the driving force of the event, and who rallied the great and the good in support of this day. Ellis is, however, just one example of the fine, community-minded spirit that can be found in the members of Hunters Hill Rotary. I would now like to pay tribute to the members of Hunters Hill Rotary who include Mr Charles Amos, Richard Barbour, Rodney Binet, Joan Bishop, Bernard Blogg, Ron Bradbury, James Brigden, David Brown, Allen Chadder, Judith Curtin, Ron Czinner, Bill Davis, John Fletcher, Tom Gait, Bruce Hartwell, Rowland Hawkins, Neville Hodgson, Bill Jacobs, Richard Johnson, John Lloyd, Roger O'Dwyer, Axel Olleroch, Niall O'Neil, Michael Parsons, Ron Parsons, Darrell Payne, Rose Renouf, Christine Santana, Robert Shaw, Andrew Smith, Anthony Smith, Paul Smith, Ted Uther, Douglas Vincent, Ken Ward, Hemant Watsa and Raymond Wilson.

I also pay tribute to the police and the Ryde-Hunters Hill SES who were as ever vigilant in looking out for participants and ensuring that the walk through Hunters Hill to Woolwich was smooth and orderly. I commend Hunters Hill Rotary and the efforts of Rotary Australia for the Polio Plus program and finding much-needed funds to combat the effect of polio. I pray the good work continues for the prevention of polio the world over.

AUTISM AWARENESS WEEK

Ms MARIANNE SALIBA (Illawarra) [5.30 p.m.]: I refer this evening to Autism Awareness Week, from 8 May to 14 May. More than 130,000 people in Australia are affected directly by autism. Australiawide some 35,000 children are affected by autism in one form or another. In New South Wales 43,000 individuals,

11,000 of whom are children, are affected by autism. More than half of these people require significant support for most of their lives. Autism is the most common childhood developmental disability. It is 10 times more common than cystic fibrosis and muscular dystrophy combined. It is more common than multiple sclerosis, Down syndrome and childhood cancer. Autism is a lifelong disability with no known cure to date. Families struggle every day to cope. Mums, dads, brothers, sisters, grandparents and extended family do their best to deal with autism.

The problem is that we do not have a clear understanding of what causes autism. The only way to achieve such an understanding is through research. The Rotary Club of Dapto recognises the importance of this research and is launching an important research initiative called Partners in Autism Research through the Australian Rotary Health Research Fund, with the aim of making available $100,000 for autism research in Australia. Donations will be 100 per cent tax deductible and every dollar raised will be matched dollar for dollar by the Australian Rotary Health Research Fund. I congratulate all members of the Rotary Club of Dapto and especially Peter Hill on their initiative to help people with autism triumph over the anxiety, frustration and confusion they deal with every day of their lives.

I have had the opportunity to visit the school in the Illawarra for children with autism and I have met the families and teachers of those children. They are doing what they can to try to untangle some of the confusion, but people with autism live in a world of their own. We must open the doors and allow them to be a part of our world. To really understand autism we need to understand what causes it, which is why research is vitally important. I commend the members of the Rotary Club of Dapto for the initiative. I acknowledge their hard work and I wish them all the best in their fundraising. At the end of the day I hope we find out what causes autism and how to cure it.

ARMENIAN GENOCIDE NINETIETH ANNIVERSARY

Ms GLADYS BEREJIKLIAN (Willoughby) [5.35 p.m.]: I wish to inform the House that 24 April 2005 marked the ninetieth anniversary of the human tragedy that is the Armenian genocide. As the grand-daughter of survivors and a member of Parliament who represents an electorate which, for decades, has been at the centre of activity for the Australian-Armenian community, I will detail the commemorative services that marked this solemn and historic occasion. It is with deep sadness and a strong sense of frustration that those with Armenian heritage around the world recall the events of 1915 as the descendants of the perpetrators of the genocide to this day, namely the Turkish Government, refuse to accept that the genocide occurred, notwithstanding that many Turkish academics are calling upon their fellow country men and women to come to terms with their past.

The Armenians, living on ancestral lands in eastern provinces of the Ottoman Empire, represented a physical, political, cultural and religious obstacle to a homogenised Turkic Empire. The architects of the genocide were inspired by a will to replace the multireligious Ottoman Empire with a pure Pan-Turkic Empire stretching from the Bosphorus to Central Asia. At that time more than half the Armenian population was brutally massacred. Some 1.5 million men, women and children were systematically exterminated and hundreds of thousands were forced to flee their homeland. The brutality started on 24 April 1915 and most Armenian political, religious and cultural leaders were arrested and murdered. The remaining population of the elderly, women and children were rounded up by special organisation death squads and were forced to either renounce their Christianity or to be raped or massacred. Most of the survivors were deported from their ancestral lands and exiled around the world.

If such crimes against humanity are not redressed genocidist states have a licence to commit these crimes again and again. No greater evidence exists than the absolute trail of human misery during the twentieth century caused by the heinous crime of genocide—the Jewish Holocaust, Eritrea, Cambodia, the former Yugoslavia, Rwanda and, as we speak, Dharfur in the Sudan. Under the auspices of the Armenian Genocide Commemorative Committee the Willoughby Town Hall was the venue of a major service on 24 April 2005. I thank the members of Parliament on both sides of the Chamber who came to show their support for the community and to pay their respects to the 1.5 million victims of the Armenian genocide, and to all victims of genocide. International guest speaker at the function, Mrs Hilda Thcoboian, President of the Armenian-European Federation for Justice and Diplomacy, spoke of the considerable progress in Europe in recognition of the genocide. She also outlined the large sum of resources the Turkish Government is continuing to dedicate to fuel its machine of genocide denial.

Earlier that day members of the Armenian community gathered in Meadowbank Park to unveil a plaque dedicated to the victims of the Armenian genocide by Ryde City Council. This followed a unanimous motion

passed by Ryde City Council in acknowledging the Armenian genocide as the first genocide of the twentieth century. On the evening of 25 April the Armenian General Benevolent Union held a commemoration at the Macquarie Theatre, where international guest speaker Dr Touranian spoke about the importance of remembering Armenian culture but, most importantly, within the context of first and foremost being loyal and hardworking Australian citizens. On 28 April the Armenian Youth Federation held a candlelight vigil from Hyde Park to Parliament House. They met with participants and community leaders on the rooftop garden, where a ceremony was held at the site of the memorial, which reflects the motion passed in this Chamber in 1997.

On Sunday 1 May the Hye Hoki Armenian Youth Group held an outstanding film festival and showed four films, which shed considerable light on the impact of the genocide through successive motions. The words of the 1997 bipartisan and unanimous motion condemning the atrocities of the Armenian genocide moved by my predecessor the Hon. Peter Collins appear on the plaque in the garden in this building. The motion joins members of the House with members of the New South Wales Armenian community in honouring the memory of the 1.5 million men, women and children who fell victim to the first genocide of the twentieth century; condemns the genocide of the Armenians and all other acts of genocide committed during our century as the ultimate act of racial, religious and cultural intolerance; recognises the importance of remembering and learning from such dark chapters in human history to ensure that such crimes against humanity are not allowed to be repeated; condemns and prevents all attempts to use the passage of time to deny or distort the historical truth of the genocide of the Armenians and other acts of genocide committed during this century; designates 24 April in every year thereafter throughout New South Wales as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century; and calls on the Commonwealth Government to officially condemn the genocide of the Armenians and any attempt to deny such crimes against humanity.

As a child I was often reminded of the tragedy that befell my grandparents and I felt fortunate to be born and raised in a wonderful country like Australia. I was always encouraged by my parents and leaders within the Australian Armenian community to be active and involved in important causes and issues. When the heinous crime of genocide is committed against any group of people on earth it is a crime committed against all of us. We must be forever vigilant in recognising and acting against such atrocities to ensure that they never occur again. Last Saturday morning I joined my friends in the Rwandan community who came together to remember the 800,000 victims of the Rwanda genocide, which occurred just 11 years ago. I listened with great sadness as survivors of the genocide spoke of witnessing the tragic deaths of their parents and siblings, and described their own fight for life. As human beings we all have a collective responsibility to ensure that the perpetrators of genocide are brought to justice and that we condemn such unspeakable acts no matter where they occur in the world. [*Time expired*.]

SYDNEY CITY COUNCIL ACHIEVEMENTS

Ms CLOVER MOORE (Bligh) [5.40 p.m.]: In February 2004 the State Government dismissed the City and South Sydney councils and amalgamated the two areas to form a new enlarged City of Sydney. At the March election city communities resoundingly endorsed my independent team's commitment to an open and accountable city government that prudently manages city finances to enhance the distinctive character of city villages and the unique strengths of the amalgamated councils. Over the past year the city has increased expenditure in the South Sydney area compared with the average expenditure under the former South Sydney City Council. The current direct and indirect expenditure for South Sydney is approximately $70 million a year, which includes a capital works budget of $26 million for South Sydney, not including budget allocations of $24.5 million for large Green Square projects compared with the average South Sydney capital works budget of $19 million per annum for 2001-04.

Our commitment to enhancing public domain open spaces is being addressed by our allocation of $600,000 to upgrade Frog Hollow in Surry Hills, $2 million for the upgrades to Victoria Park pool and playground, $250,000 for the Redfern Park oval feasibility study, $30,000 towards the new Erskineville oval plan of management and $17,000 for the upgrades to Waterloo Oval and skate park. The council has also committed $1.05 million to upgrade three parks in Hugo and Eveleigh streets, Redfern. This includes a new multipurpose court, improved fencing, shelter, lighting and footpath reconstruction. The council also has continued extensive work on Sydney Park to develop an outstanding regional open space facility. Funding of $4 million was allocated this year for an adventure playground, picnic shelters, toilets, barbeques, lighting, sports facilities and the wetlands works.

Funding of $8 million has also been allocated over three years for the Redfern Street upgrade. The city council is committed to completing this project by resolving issues concerning undergrounding utilities and the

relationship with works by the Redfern-Waterloo Authority. Our commitment to services and facilities that meet the needs of growing city communities is being progressed. This year we allocated $25,000 to upgrade the Joseph Sargeant Centre; $55,000 for works at Redfern Occasional Child Care; $210,000 to implement the Redfern Waterloo community facility, safety and cultural plans; $30,000 for airconditioning at city south's activity centres; and $2.3 million for refurbishing a range of council properties in the south.

The city council has continued support for the new $3.2 million Redfern Community Centre adjacent to the Block. The centre's programs include after-school activities, a mobile play bus and playgroups, a weekly aunties' afternoon tea, a youth program, free exercise classes, a community barbeque and market, and employment and training programs. The council has committed recurrent funding to staff the centre as well as $94,000 this year for equipment. The council supports many community services, including Kidspeak, which is a program combining recreational activities and family support for primary school age, high-needs children from Waterloo. We provide services and programs for those in Redfern-Waterloo with high and complex needs, including the Redfern Occasional Child Care, Drivin' for Employment, Lights Camera Action, Rec'n' Redfern, and Meals on Wheels.

The city council also has a substantial administrative presence in Redfern, with approximately 100 staff contributing to the local economy and safety. Our commitment to transport planning and traffic management is being implemented through developing an integrated transport plan. This includes promoting light rail extensions with a southern corridor to Mascot via Green Square, $5.7 million on footpath works, $530,000 on local area traffic management, $75,000 on the Zetland area traffic study, and $2.5million on roadworks. Next year the city council is planning for even higher levels of expenditure in south Sydney. The city council is committed to a new aquatic centre in the south of the city. We are currently developing the plan of management for Prince Alfred Park, which serves not only Surry Hills public housing tenants but also public housing residents in Redfern and Waterloo, with around $11 million expenditure anticipated to upgrade the park, pool and sporting facilities.

A new neighbourhood service centre is being created at the Erskineville Town Hall to improve access to council services for southern areas. The fit-out of the centre will cost approximately half a million dollars with ongoing staffing. Funding in excess of $3 million will also be allocated to new child care and community facilities in Surry Hills. We have also committed to a five-year program to upgrade pedestrian and cycle facilities and will continue our work to improve public transport access. The new council is committed to all the communities of the enlarged city. We are committed to providing environmental leadership, open, transparent and accountable consultative governance as well as socially progressive solutions to complex inner city problems. Over 95 per cent of the votes at the council are unanimous. The Sydney city council is a productive, progressive council whose members work together co-operatively.

WATER CONSERVATION

Mr IAN ARMSTRONG (Lachlan) [5.45 p.m.]: It would not be news to anybody that New South Wales is in the grip of one of the driest periods in its history. It is also not news that severe water restrictions are in place in Sydney and in virtually every town and village across New South Wales. In the past week or so we have heard the Minister for Energy and Utilities, the Hon. Frank Sartor, outline plans for desalination plants and other ways of generating additional water resources. These measures should be considered against the background of the Warragamba Dam, the major water resource for Sydney, which currently is at 44 per cent of its total storage capacity. All I can say is: Hard cheese! Try being down to 8 per cent of capacity, or minus 3 per cent of capacity. Wyangala Dam currently holds just over 8 per cent of its total storage capacity and Lake Cargelligo is at minus 3 per cent of its capacity, and the forecasts are that the Lachlan River may well cease running by the middle of winter unless the catchment area, which includes the Oberon and Abercrombie rivers, receives major rainfall within the next six weeks. A great deal of rain will be needed for the dams to catch up.

The bottom line is that the Government has not indicated one initiative or devoted one thought to how it will deal with the next inevitable drought. Historically, New South Wales has a drought every 20 years or so. The current drought will end one day, although we do not know when, but I can guarantee that another one will follow it. If the Government does not take note of the lessons to be learned from the current drought, the next drought will have the same devastating impacts. The same towns will run out of water and the same businesses and communities will be adversely affected. I ask this Parliament to consider what has been happening at Onkaparinga in South Australia.

No doubt in the wonderful dining rooms of this Parliament tonight many a bottle of red wine will be consumed, and some of the wine will have come from McLaren Vale in South Australia. However, I suspect

that not one person in a hundred consuming the wine will know that a unique 25-year agreement resulted in the redevelopment of the city of Onkaparinga's septic tank effluent disposal schemes [STEDS] to a stage that enabled recycled water to be used for the irrigation of vineyards in the McLaren Vale and Willunga region. For a long time recycled water has been used in McLaren Vale vineyards with great success. United Utilities, a private enterprise company, will manage and operate the schemes over the next 25 years in a manner that will ensure compliance with environmental and all other legislation covering treatment and disposal of sewage effluent. The company will also manage all capital works relating to the STEDS on behalf of the city of Onkaparinga.

The value of the project, including capital works, is approximately $45 million. Construction has also commenced on a new sewage treatment plant which will treat effluent from the McLaren Flat, McLaren Vale and Willunga schemes to produce water that is classified as class B, as designated under the South Australian reclaimed water guidelines. That will allow the water to be re-used as irrigation water. Anybody who has visited Monterey County in California would know that it is a massive vegetable growing area and that it is one of the largest of its type in the world. But not many people would know that 4,800 hectares of the area's food crops, including artichokes, celery and lettuce, are irrigated with treated effluent. The project has been under way since 1998 and uses more than 9,000 megalitres of treated water per year.

Israel, which is a mostly arid country that is approximately one-third of the size of Tasmania, recycles 70 per cent of its effluent. The Hashemite Kingdom of Jordan and the Kingdom of Saudi Arabia have a national policy to re-use all treated waste water effluents and have already made considerable progress towards achieving that end. Over approximately the last 15 years in New South Wales, the city of Orange has incorporated a grey water recycling system as part of its new developments. In 1990, the very good Greiner-Murray Government provided financial assistance for the establishment of a two-tiered system of water recycling in the Lake Albert region, and that has been very successful indeed. The wonderful and progressive little town of Grenfell has been using recycled water on its sporting ovals for nearly 25 years and that also has worked very well. As a matter of fact, for many years Grenfell has been the home of a premier rugby team in inland New South Wales.

The Government should by all means examine the benefits of desalination, but should also consider measures such as recycling bath water and water that is flushed into sewerage systems every day of the week. New South Wales is a long way behind the States that have thought about water conservation. Even South Australia is ahead of New South Wales in recognising that a precious natural resource is being wasted. It is time for New South Wales to wake up and implement plans and provisions to minimise the adverse impacts of the next inevitable drought. [*Time expired.*]

SALVATION ARMY RED SHIELD APPEAL

Mr KEVIN GREENE (Georges River) [5.50 p.m.]: Members of this House know that on many occasions over the past six years I have commented on the magnificent work done in the community by many service organisations. I have referred to the work of the Lugarno Lions, Oatley Lions, Hurstville-St George Lions, and the New Lions Club of Hurstville City, as well as Rotary clubs in my electorate, including Hurstville Rotary, St George Central Rotary, Georges River-Riverwood Rotary, and of course the Georges River Lionesses. Last night my wife represented me at a Georges River Lionesses presentation dinner which I was unable to attend because Parliament was sitting.

It has been my privilege to commend those organisations on the work they do in the community. Today I will focus on another well-known organisation, the Salvation Army. This year the Salvation Army's Red Shield Appeal will be held on Sunday 29 May. I was asked to assist in my electorate and I have taken on the position of zone chairman. I will not go into the details of how I came to hold that position: Suffice it to say that I have been volunteered to take it on. I am privileged and honoured to accept the position. The Salvation Army performs an enormous amount of good work in our community. As all honourable members know, the Red Shield Appeal is the Salvation Army's only opportunity each year to raise funds to support its magnificent work.

I am sure many members of this House are, like me, involved in assisting in the Red Shield Appeal this year. I am particularly pleased to report that this year again we have had a good response from local schools. Over the next couple of weeks Salvation Army officers will visit local schools to invite students to volunteer as collectors on 29 May. Schools that have already indicated they will be involved include Kingsgrove High School, Danebank Girls School, St George Christian School, the four campuses of the Georges River College at Oatley, Peakhurst, Penshurst and Hurstville, and Penshurst Marist High School. It is great that those schools encourage their students to support the work of the Red Shield Appeal and to assist as collectors.

I am pleased that this year members of the Lugarno Lions Club and the Lugarno Progress Association will assist in the appeal. Honourable members will realise that the appeal is an enormous undertaking. In my zone there are more than 20,000 households to be visited on the morning of 29 May. Obviously the more households that are visited the more opportunity there is to raise funds for the Salvation Army. The Oatley Uniting Church has come on board. I have written to a number of churches in my area requesting their support with drivers to transport children around the district. Penshurst West Public School, the main focus for the collections, will host a barbecue that is to be catered for by the Lugarno Lions Club.

I work closely with the director of the Red Shield Appeal in my area, Major Alwyn Robinson, and his team, as well as his wife, Deborah, and Carol Smith. Tomorrow morning I will attend the southern area meeting, to be chaired my Marion Smith. Unfortunately, in my area there are eight zones, but at this stage only four zones have a chairperson. I hope that many more in my community will come forward to take on one of those important positions. We all acknowledge that many community groups and service organisations do an enormous amount of good work. The St Vincent de Paul Society certainly does a great deal of work through my church. It is very much a parish-based organisation that supports people in need. Other church organisations have similar groups that work in the parishes to support people in need. On 29 May the Salvation Army will raise funds to support that work, and I am proud to support the 2005 Red Shield Appeal. [*Time expired*.]

KURNELL SANDMINING

Mr MALCOLM KERR (Cronulla) [5.55 p.m.]: Kurnell, which is in my electorate, is recognised as the birthplace of modern Australia, being the site on which European contact was made with Australia's shores by Captain James Cook in 1770. Since that time, land clearing, sandmining and industrial development have destroyed the unique character of the peninsula. Kurnell has become Australia's shame, but it should be a source of pride as the birthplace of modern Australia. It is regrettable that the road into Kurnell, Captain Cook Drive, is experiencing additional heavy vehicle movements with which the average motorist has to compete.

As a result, coastal stability needs to be addressed. The effects of sandmining have lead to concerns about the stability of the sand body separating the ocean from Botany Bay. The Healthy Rivers Commission has recommended that a comprehensive investigation be undertaken on the amount of sand remaining on the peninsula and that there be an early review of extractive industries, which are currently being undertaken without adequate environmental safeguards or assessments. The former Department of Land and Water Conservation stated that in the event of a catastrophic sea and wave conditions the seaward dune system may be breached and the possibility of wave attack on Captain Cook Drive cannot be ignored.

That leads to the planning that has been carried out at Kurnell. In 1987 the then Minister for the Environment, Mr Carr, was responsible for the compiling of Sydney regional environmental plan 17 [REP 17] on the Kurnell peninsula. That plan has not been updated since that time. The former Department of Planning transferred consent authority for Rocla and Australand projects from the Sutherland Shire Council to the State Government and its Minister for Planning. At that time an undertaking was given that a study would be carried out on the peninsula and that a new regional environment plan would be put on public exhibition. We are still to see the results of that study. Clause 23 of REP 17 prevents development applications being approved for large areas of Kurnell.

Sutherland Shire Council has obtained legal advice that it cannot do that. The mayor and senior officers of the council have met with officers of the Department of Infrastructure, Planning and Natural Resources. The council representatives produced the legal advice on which the council had based its actions and was given an undertaking that the department would come back to them with its position. That has not happened. The residents and home owners of Kurnell now believe their homes have lost value. A number of development applications that have been lodged with Sutherland Shire Council cannot be acted upon, according to the legal advice given to council. The lack of action by the department has caused a great deal of anguish and concern. In the context of the way that the Kurnell peninsula has been treated, with the planning situation not finalised and a number of other outstanding matters, the most immediate problem for land owners and home owners is that the uncertainty be rectified. I call upon the Government to make its position clear.

Ms DIANE BEAMER (Mulgoa—Minister for Juvenile Justice, Minister for Western Sydney, and Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)) [5.59 p.m.]: I undertake to have this matter investigated. I understand that when regional environment plans preclude certain things from occurring, it is incumbent on the Government to make sure that that is clarified for the landowners and residents of the area.

TRIBUTE TO MRS MARIGOLD LAWRENCE

Ms MARIE ANDREWS (Peats) [5.59 p.m.]: I place on record the significant contribution to society by a constituent of the Peats electorate, Marigold Lawrence. Marigold was, as her name implied, a bright and friendly lady. She was born on 3 September 1929 and departed this life on 16 April 2005. Her full name was Marigold Mary Alice St Clair Lawrence, and she was the third child of Leslie and Fairy Mosse-Robinson. Marigold's father Leslie, a British naval officer, was also an amateur entomologist and naturalist. He is credited with convening the inaugural meeting of the Gosford District Fauna and Flora Protection Society in 1953. That meeting was attended by more than 80 people, one of whom was Marigold.

Leslie Mosse-Robinson became the society's first president and Marigold took on executive positions over the years. The society's membership grew to a total of 144 within two years. In 1964 the society changed its name to the Gosford District Wildlife Conservation Society. Marigold followed in her father's footsteps by developing a great love of nature and working tirelessly to protect our fragile environment. Both father and daughter were certainly well ahead of their time in drawing attention to the urgent need to care for our unique flora and fauna.

Today approximately 33 per cent of the Gosford local government area comprises national parks or nature reserves, which is due largely to the efforts of Marigold, her father, Leslie, and several other members of the society. These include Andrew Sourry, OAM, the late Lois Sourry, who served as president of the society from 1954 to 1960, and Zoe Russell, a very good friend of Marigold, to mention only a few. To illustrate the point I made about the huge increase in the preservation of areas in the Central Coast in the electorate of Peats, I can proudly boast that there are three magnificent national parks in the electorate—Brisbane Water, Dharug and Popran national parks—as well as Lion Island Nature Reserve.

Marigold was passionate about preserving the prostanthera junonis, or Somersby mint bush, which is listed in schedule 1—Endangered Species Populations and Ecological Communities—to the Threatened Species Conservation Act. Marigold's wide interests also encompassed many important aspects of her interesting life, none more so than her family. Upon completing her schooling at Gosford High School, Marigold studied sketching and sculpture at East Sydney Arts School. On 26 November 1955 Marigold married John Lawrence, who operated a small pottery business from his home at Somersby. The couple had three children, Sebria, Kathy and Shauna. Marigold nursed John, who became bedridden two years prior to his death in 1988. She stayed on at Somersby in the same dwelling that she called home for over 50 years.

Numerous organisations have benefited from Marigold's dedication to the Central Coast community. These include the local parents and citizens association, where her children attended school, the Country Women's Association, the Save the Children Fund and the Girl Guides movement. Marigold became a district commissioner of the Girl Guides and helped to establish a guide hall in the mountains district. As a committed Christian, Marigold became an elder of St Matthews Lutheran Church at West Gosford. Her ever-cheerful disposition endeared her to all she met. That was evident by the lovely tributes paid to Marigold by her three daughters, a granddaughter and others at a funeral service held at St Matthews Church on 21 April 2005.

Marigold's enormous contribution to preserving the environment and the many organisations in which she became involved was acknowledged with the awarding of the Order of Australia Medal on 26 January 2000, the Centenary Medal on 1 January 2001, the Melvin Jones Fellowship from the Lions Club, and being named Gosford City Council Citizen of the Year. The funeral service for Marigold was well attended by people from all walks of life. It was a fitting tribute to an outstanding and wonderful lady who lived by the stories and lessons taught in the *Bible* and who definitely had the strength of her convictions. Marigold is survived by her three daughters and their husbands, 10 grandchildren, two great-grandchildren, her brother Colin, as well as many good friends. I extend to all of them my deepest sympathy. Vale, Marigold Lawrence.

HUNTER RIVER HIGH SCHOOL

Mr JOHN PRICE (Maitland) [6.04 p.m.]: Last Monday, 2 May, it was my great pleasure to represent the Minister for Education and Training in my capacity as Deputy-Speaker at a significant occurrence in Raymond Terrace relating to high school education. With my colleague the honourable member for Port Stephens, John Bartlett, I declared a name change to Raymond Terrace High School. It is now to be known as Hunter River High School, which will accurately reflect the communities in the area. The high school, which has been in existence in Raymond Terrace for 50 years, not only serves the town of Raymond Terrace, but also now picks up students from well into the Maitland electorate all the way through to Hinton. Agricultural pursuits are the pre-eminent areas of education at that school.

Hunter River High School, an agricultural high school, has never been badged in that fashion. The rebadging of the school made people sit up and take notice. The name Hunter River High School has a certain ring to it. The school lost its former Raymond Terrace title and it has now been given a much broader title that reflects the current student community. Nearly half of the school's 725 students are studying agriculture or primary industry. Years 11 and 12 have a two-unit primary industry course with a dual accredited Higher School Certificate-National Certificate 2 course. It is extremely important that young people be given an opportunity to broaden their studies and create an area of excellence at the school.

Many people do not like areas of excellence in schools, but it is important in this case as it reflects one of the major industries in the lower Hunter. I recall arranging transport 15 years ago for students from Beresfield, which is a good three-quarters of an hour drive from the high school. Because no bus transport was available, students had to be taken to the school by their parents to study various aspects of agriculture. One of those students went on to obtain a PhD in one aspect of agriculture. Whenever he meets me he thanks me for making the opportunity available to him to attend that school, which was well out of his zone.

The school has expanded its academic areas. One of those areas is tourism and hospitality. I was delighted to taste the benefits of that hospitality at a morning tea held after the school assembly at which the announcement was made. I joined with members of the school council, members of the parents and citizens association, principals from feeder schools and other high schools, students and the school executive to enjoy a morning tea made by the students. I am advised that more than 500 students in years 9 and 10 have completed hospitality and tourism studies and well over 100 students in years 11 and 12 have completed other dual accredited courses.

Students were delighted with the school's name change. One of them said, "It gives us a much better name, it's a bit flash." It was important to recognise the progress made by the school over the years and the activities of staff. I thank the principal, Mr Charters, his team and the community for the work that they have done. Also involved were representatives from the agricultural, tourism and hospitality industries. It was great to see them there. Some of those representatives spoke on the day. It was a great day for Hunter River High School, a great day for Raymond Terrace and a special day for the staff and students of Hunter River High School.

NSW MARITIME AUTHORITY COMMERCIAL LEASES POLICY

Mr DAVID BARR (Manly) [6.09 p.m.]: Last week I met representatives from the local boating fraternity: Davis Marina, Clontarf Marina, Manly Boatshed and Manly Yacht Club. Their concern, which is shared by the boating industry generally, is the draft policy on commercial leases issued by the NSW Maritime Authority in March. The leasing proposals in the document place onerous requirements on lessees that are likely to force many out of businesses that they have been running for many years.

The lease policy is intended to apply to all commercial leases, that is, marinas and yacht clubs, on Sydney Harbour but not small sailing clubs. One of the biggest bones of contention is that the new policy will give ownership of assets to the Maritime Authority at the expiration of a lease. The authority can then call for public tenders based on the improved value of the asset, which the lessee may have invested in over many years. So the authority takes over the assets at the expiration of the lease and then seeks maximum market value in the tender process that may very well preclude the party who has invested significantly in the maritime asset over time. The authority effectively becomes the owner of all improvements carried out by the lessee, such as jetties, pontoons, berths, pump-outs, slipways and fuel services. There is no compensation upon termination of the lease and the market value of the improvements is reflected in rent payable by the next lessee. However, the lessee carries all liabilities, such as insurance and maintenance.

This proposal does not take account of goodwill. Leaseholders are in a bind, facing the loss of their business assets but unable to move their business elsewhere. That is unconscionable and goes against good business practice. Current leaseholders will be unwilling to invest in upgrades because they fear that ultimately their investment will be the Maritime Authority's benefit and their loss. Lessees will understandably tend to run down assets towards the end of the lease and allow environmental protection facilities to degrade.

The authority is also seeking to charge rent on adjacent freehold land when the earmarked land is used as part of the maritime business. This is equally obnoxious and unconscionable. When the lessee owns such adjacent land he may well be forced to hand back his wet lease to the authority to protect the freehold land from the avaricious grasp of the authority. Chances are that the land will then be put to a completely different use,

such as residential development. The outcome of this proposal will be further residentialisation and gentrification of the harbour and a move away from a working harbour. The local Manly marinas are long-established family businesses that are an integral part of the tradition and social fabric of the area. They have introduced thousands of Manly residents to the pleasures of sailing and boating, provide employment and add to the diversity that makes Manly what it is today.

Davis Marina has been operating for 62 years, Manly Boatshed has operated for close to 100 years and Clontarf Marina dates from the 1950s. If only the largest marinas survive, particularly those with access to cheap funds available to invest in environmental infrastructure, local competition will be driven out. Marinas will cater only to the luxury market and boating will tend to be accessible only to the wealthy, particularly when launch ramps are few or crowded. Bruce Davis, the Manager of Davis Marina, wrote to me explaining that his lease expires in 2½ years and that unless the policy is changed he will cease to trade. He wrote:

> That will signal the end of a 62 year family business spanning four generations. We will not tender for the lease because even if we are successful we have expert advice not to sign the lease. If the community still wants a marina on our site we would like to continue trading, pay our lease fee, pay our taxes, pay our bills, employ staff, meet any other social obligations and make a small profit.

It would be a travesty if Davis Marina went out of business and a larger player took over. In September 2000 when the Deputy Premier was the planning Minister he announced the Sharing Sydney Harbour Vision that comprised 10 projects. One of these—project five—was a review of the tender of waterfront operations:

> … to ensure a more secure operating environment, thus encouraging long term investment.

The draft policy does the opposite. I have written to the current Minister seeking a meeting between him and the Manly stakeholders to discuss this matter.

Private members' statements noted.

CRIMES AMENDMENT (GRIEVOUS BODILY HARM) BILL

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

[*Mr Acting-Speaker (Mr Paul Lynch) left the chair at 6.14 p.m. The House resumed at 7.30 p.m.*]

BUSINESS OF THE HOUSE

Bill: Suspension of Standing and Sessional Orders

Motion by Dr Andrew Refshauge agreed to:

> That standing and sessional orders be suspended to permit the introduction, and progress up to and including the Minister's second reading speech, of the Appropriation (Budget Variations) Bill, notice of which was given this day for tomorrow.

APPROPRIATION (BUDGET VARIATIONS) BILL

Bill introduced and read a first time.

Second Reading

Dr ANDREW REFSHAUGE (Marrickville—Deputy Premier, Treasurer, Minister for State Development, and Minister for Aboriginal Affairs) [7.30 p.m.]: I move:

> That this bill be now read a second time.

The Appropriation (Budget Variations) Bill 2005 is a key part of the annual budget process. It ensures that all variations of expenditure from the annual Appropriation Act are reported and submitted for approval to Parliament. Throughout the year the Government is required to cater for unforeseen and urgent expenditures that were not forecast in the annual Appropriation Act that was finalised before the start of the financial year. The bill ensures that there is a transparent process for examining this expenditure. And so, this practice of seeking approval for supplementary appropriations to cover payments not provided for in the annual Appropriation Act has now become an important part of the annual budget process.

This is a process that has been endorsed by the Auditor-General as well as the Legislative Council's General Purpose Standing Committee No. 1 in its report on appropriation processes. However, it is not always possible to seek Parliament's authority in advance for pressing expenditure needs and the Parliament has previously established procedures to provide for this eventuality. To ensure that the Government is able to meet unforeseen expenditure, each year the Parliament makes an advance available to the Treasurer, the Treasurer's Advance. In addition, section 22 of the Public Finance and Audit Act 1983 allows the Governor to approve expenditure for the exigencies of Government from the Consolidated Fund, in anticipation of appropriation by Parliament.

The bill has four key features. Firstly, it provides an account to Parliament on how the Treasurer's Advance has been applied for recurrent and capital expenditure; secondly, it seeks an adjustment of the advance prior to the end of the current financial year; thirdly, it seeks appropriations to cover expenditure approved by the Governor under section 22 of the Public Finance and Audit Act 1983; and finally, it seeks additional appropriation for payments which are intended to be made in the current financial year where no provision was made in the annual Appropriation Bill.

Schedule 1 to the bill covers appropriations for 2004-05, and schedule 2 covers payments made in 2003-04. The payments from 2003-04 have already been brought to account in the agencies' audited financial statements and have no impact on the published budget result for that year. This Government, in presenting further Appropriation Bills, has sought, as far as possible to ensure that Parliament has the opportunity to scrutinise anticipated additional funding requirements prior to expenditure being incurred.

The Appropriation (Budget Variations) Bill 2005 seeks, in respect of the 2004-2005 financial year, appropriations of $214.059 million in adjustment of the advance to the Treasurer, $152.907 million for recurrent and capital works and services approved by the Governor under section 22 of the Public Finance and Audit Act 1983, and additional appropriations of $144 million. Schedule 1 to the bill has a full account of how the Treasurer's Advance has been applied this year. The Treasurer's Advance payments in 2004-05 highlight the commitment the Carr Government has to ensuring appropriate services for the community, and includes $34 million to the Department of Infrastructure, Planning and Natural Resources, $33.6 million for ageing, disability and home care services, $16.346 million to Police for Information Management and Technology Strategic Plan implementation, $12 million for metropolitan bus services reform, $8.494 million for the development of Parramatta Justice Precinct on the former Parramatta Hospital site, $8 million for public road upgrades, and $7.9 million additional funds for the Adult Training, Learning and Support program and Post School Options program.

The additional appropriations in the bill under section 22 of the Public Finance and Audit Act 1983 for 2004-05 include $74 million for the Port Macquarie Base Hospital purchase and buy-out of the operating contract, $39.2 million for the opening of 200 new hospital beds and an elective surgery waiting list reduction program, and $9 million for drought assistance loans provided under the Special Conservation Scheme. An additional appropriation of $144 million is sought towards an operating subsidy to Rail Corporation. The bill also seeks appropriations to adjust certain payments made during the 2003-2004 financial year either from that year's advance to the Treasurer, or approved in that financial year by the Governor under section 22 of the Public Finance and Audit Act.

Additional funding in 2003-2004 was provided for the retirement of debt, additional payment to the Liability Management Ministerial Corporation to reduce unfunded superannuation liabilities, the teachers 5.5 per cent award increase, and for improved health, education and transport services. Each of the payments made in 2003-04 have been included in the audited financial statements of the relevant agencies for that year. The practice of introducing further Appropriation Bills has enhanced accountability for the expenditure of public moneys from the Consolidated Fund. It is further evidence of the Government's commitment to transparent and full financial reporting to the Parliament and the community. I commend the bill to the House.

Debate adjourned on motion by Ms Peta Seaton.

ENERGY ADMINISTRATION AMENDMENT (WATER AND ENERGY SAVINGS) BILL

Second Reading

Debated resumed from an earlier hour.

Ms CLOVER MOORE (Bligh) [7.37 p.m.]: I support the Energy Administration Amendment (Water and Energy Savings) Bill, which takes a necessary step towards the conservation of energy and water, which is vitally necessary for our future. I commend the Government for introducing a bill that takes a demand

management approach to address increasing growth in demand for energy and water. A reduction in energy consumption is vital to ensure a reduction in greenhouse gas emissions that cause climate change and increase the likelihood of bushfires, extreme weather, and drought. According to a recent report by the Productivity Commission, stationary energy use from electricity generation and non-transport fuel combustion in the industrial, commercial and residential sectors accounted for 47.6 per cent of the 550 megatonnes of carbon dioxide emitted by Australia in 2002.

The Australian Greenhouse Office forecasts that emissions from stationary energy users are set to increase by 46.2 per cent between 2008 and 2012, and approximately 70 per cent of that originates from the generation of electricity. According to the green paper, greenhouse gas emissions from electricity generation in New South Wales grew by 44 per cent between 1990 and 2000. In 2002 electricity generation emitted 59 million tonnes of greenhouse gases, making electricity generation the single largest contributor to greenhouse gas emissions. If the Government allows increasing demand to be met with greenhouse-intensive forms of generation, emissions will only continue to rise.

I ask that the Government make a commitment to fully employ the resources of the Energy Savings Fund to prevent the building of a new coal-fired power station, which would be harmful to the environment and only 33 per cent efficient. Energy studies have shown that a typical 500-megawatt plant burns enough coal to release 1,500 megawatts of thermal power but releases 1,000 megawatts as waste heat. Coal-fired plants are not only inefficient but also greenhouse-gas intensive. A 1,000-megawatt coal-fired power station burns 3.7 million to 4 million tonnes of coal annually, emitting 6 million to 7 million tonnes of carbon dioxide. A new coal-fired plant has a lifetime of 35 to 40 years. It is certainly a backward step in terms of clean energy future.

In addition, a new coal-fired power station takes six to eight years to commission and build, so it could not meet the estimated demand capacity in four years. Coal-fired power stations require a large investment. The proposed expansion to the Mount Piper plant is expected to cost approximately $2 billion. Investment in coal-fired power station is not the only way to have affordable and secure electricity. Demand management is a cheaper, faster and more environmentally friendly option that defers investment in a new coal-fired power station.

I welcome the provisions in the bill that establish the Energy Savings Fund. The fund provides essential monetary support for energy savings projects and will increase investment in energy efficient measures. While there is enough electricity to meet average demand needs, the current supply cannot provide for anticipated peak demand, which occurs when demand for electricity is high, typically when customers use airconditioning or heating units at times of extremely high or low temperatures respectively. The growth of peak demand over the past five years has been 3.8 per cent per year. As a result, New South Wales uses 10 per cent of electricity generated for only 1 per cent of the year to meet peak demand. According to the green paper, if the current trends of increasing peak demand continue, in 10 years time 18 per cent of total electricity generation will be required for only 1 per cent of the year. This is not efficient or practical. The peak demand growth, if not addressed, threatens the reliability and efficiency of energy services.

Demand management reduces wasteful energy use and unnecessary network expenditures. Demand management programs can take the form of restricting some loads during peak demand, using generators on the premises of large customers, the installation of more efficient equipment, switching electricity use to outside peak periods, and changing some electricity loads to different fuels, such as gas or renewable resources. The efforts made by demand management reduce the demand for energy because of increased energy efficiency. The Independent Pricing and Regulatory Tribunal concluded that "there is significant untapped potential for efficient demand management" in New South Wales.

In 2003 demand management funds in the United States generated a peak load reduction of 22,904 megawatts. California is the leader in the implementation of demand management programs for the United States of America because of the energy crisis there in the 1970s and in 2001. In the 1970s, due to soaring electricity prices as a result of the oil crisis, the California Public Utilities Commission [CPUC] required utilities to implement conservation programs before it would approve new generating plants. The CPUC forced utilities companies to promote conservation because the companies were not keen on introducing the programs themselves.

In early 2001 several demand management programs were introduced to deal with the energy crisis in California. The deregulated utilities refused to build any new supply capacity, so that in the summer of 2001 California electricity consumers faced high electricity costs and blackouts. The demand management programs

implemented resulted in an immediate peak and total consumption reduction of 5,570 megawatts. California introduced rebate programs, offering financial incentives to residents and non-residential customers for purchasing energy efficient products; appliance recycling providing for cash incentives for the surrender of older, inefficient refrigerators and freezers; energy efficiency retrofits providing incentives to retailers to stock and sell high efficiency products. I think we have a lot to learn.

I welcome the provisions in the bill that increase the use of energy efficient measures aimed at reducing the total level of energy consumption while maintaining the level of useful output. An increase in the efficient use of energy helps to reduce the externalities of energy production, such as greenhouse gas emissions, air pollution and water consumption. Energy efficient programs reduce energy use by improving the efficiency of equipment and household appliances, residential and commercial buildings, and industrial processes. Energy efficiency is the cheapest and fastest way to reduce greenhouse gas emissions from stationary energy use. New South Wales cannot continue to pollute the environment in such a reckless manner when cost-effective energy efficient technologies are available.

The Government needs to make clear which types of demand management programs are to receive money from the Energy Savings Fund. The Government should consider funding small energy users and low-income households to help them become more energy efficient. The fund should include monetary assistance to low-income households, because they are most susceptible to rises in the price of energy. Monetary support must go to technological innovation and long-term projects that allow the fund to continue to provide for energy reduction in the long term.

Environment groups have approached me with concerns that the bill allows funds to be redirected to pay for national energy regulation. Schedule 1 inserts in the Act a new Division 3, in which section 34L states that one of the purposes of the Energy Savings Fund is "to provide funding for contributions made by the State for the purposes of national energy regulation". Membership in the national electricity market requires New South Wales to contribute to national energy regulation. The Energy Savings Fund should not pay for the contributions to national energy regulation. The provision drains the Energy Savings Fund of resources for a purpose that has nothing to do with energy savings.

I believe that the bill falls short on action to curb peak demand and reduce greenhouse gas emissions. The bill needs specific targets in place for real and measurable reductions in the amount of energy consumed and for greenhouse emissions. I am concerned that, without targets, consumption and emissions will rise at a direct cost to the consumer. The Government of Victoria introduced a greenhouse statutory policy that will reduce greenhouse gas emissions at a lower cost to electricity consumers than this bill will. The companies in the Victoria scheme act on energy saving options with a three-year payback. The companies are responsible for most of the funding of the program because they are the ones that benefit from lower electricity bills under the bill.

Environmental groups have approached me with concerns that the Energy Savings Fund lacks an advisory committee, and that this reduces the effectiveness of the fund. Schedule 1 inserts in the Act a new division 5, in which section 34W states that the Minister may form a standing or special committee for the purpose of advising him in the exercise of his functions. I believe that the formation of an advisory committee to the Minister should be mandatory and that the committee should consist of one or more members of environment groups, community groups, and energy service industry representatives and that it should review the expenditure of the fund to ensure that the finances are used wisely to receive the greatest benefit in demand management.

I support the provision in the bill that the largest water and energy users must compile a savings action plan for submission to the Minister. Savings action plans force large energy users to look at ways to be energy efficient. Such a plan includes a description of the user's current water and energy usage, a list of measures of water and energy savings to be set up in four years, and the estimated cost of each measure. However, I am concerned that the bill lacks detailed guidelines for the creation of such a savings action plan. The bill allows large energy users to neglect responsibility for the accuracy of their savings action plans, which, in light of past experience, is dangerous and will result in fewer reductions.

From 1997 to 2001, before the introduction of mandatory greenhouse benchmarks, electricity retailers falsified information in voluntary greenhouse gas reduction programs. The requirement for large energy and water users to be responsible and accurate in the presentation of their energy and water savings action plans improves the functions and outcomes of the bill. In conclusion, I support the Government's introduction of

demand management as a way to increase conservation efforts and efficiency in the water and energy industries, and I call on the Government and the Minister for Energy and Utilities to address the concerns I have raised about how the savings will be achieved and measured.

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [7.48 p.m.], in reply: I wish to respond to all the issues raised. I start by putting this legislation into context. In water, we have a Metropolitan Water Plan, which has a whole range of measures to increase supply. But we are also dealing with the demand for water through the basics of design of new buildings and various programs that we are already running. The purpose of the provisions of this bill is to provide further resources to promote savings in water consumption. The Government's green paper already provides a range of necessary initiatives. In energy, there must be some supply augmentation, but we must also deal with the consumption side as well and promote energy efficiency. As some honourable members, including the honourable member for Bligh, have said, it is important to promote energy efficiency because that is the best way of reducing greenhouse gases.

We have to address both the water and energy needs of the community and the growth in the economy by addressing supply, but we should also, wisely, address demand to ensure that we use both resources efficiently. The report of the Independent Pricing and Regulatory Tribunal [IPART] recommended the creation of a fund and a program to deal with demand. Consequently the Premier set up a task force on energy, which led to this bill. That is the context. The bill deals with the demand side of the equation, but that does not in any way remove or obviate the supply side and the importance of full and comprehensive plans. We are not that far away from finalising the energy plan arising from the energy green paper.

The Opposition alleges that the bill introduces a tax and that somehow it will be treated similarly to other levies generated and used in lieu of Consolidated Revenue resources. The bill makes it abundantly clear that the funds are hypothecated for use in water savings or energy savings, depending on the source from which they came. The bill has nothing to do with taxation; it is a reallocation of share revenues in water and energy to ensure that we carry out these savings programs. Our estimate for energy is that after the five-year program, consumers in New South Wales will achieve a gross saving of $375 million. Rather than being a slug it will reduce consumption and save consumers substantial amounts of money.

The energy contribution of $40 million across the State would be equivalent to about 1.5¢ a day or $5.40 per annum for the average residential consumer. It is entirely dishonest to refer to this as some sort of tax or a contribution to Consolidated Revenue. These funds are all about taking some revenue and reallocating it to make ourselves more efficient, and to promote savings in our community and in our precious water and energy resources. Sydney Water is already spending $15 million per annum on the retrofit program, rainwater tanks in schools, rainwater tank subsidies, and so on. The degree to which price impacts would generate the fund is quite small because $15 million is already available within Sydney Water. It is not an additional slug, it is reallocation in a different way. Related to this is the usual rant about dividends. Everyone knows that dividends are part of competitive neutrality and part of the national competition policy.

When the Coalition was in government in New South Wales it introduced dividends. The scale of dividends it took out of energy and water companies was no different to what we are taking out now. They are quite similar, so that is a complete furphy. We also know that dividends come out after profits, if there are profits. They have not affected the capital works programs of any of our water or energy companies. That is a totally separate issue. If one were to look at the dividends from Sydney Water it would become quite clear. For example, in 2003-04 after one takes into account the social program reimbursements that Sydney Water pays for pensioner rebates and so on, the net contribution was $94 million, which is quite small by any standard. So long as dividends come out of profits, there is no problem. Indeed, dividends support a number of important Government programs and enable us to treat our State-owned corporations in the same way that the private sector is treated. The fourth issue deals with transparency.

Comment was made about advisory committees, the structure of the fund and how it is administered. Let me start with a philosophy. There has been criticism that the energy corporations and Sydney Water have a conflict of interest in allocating money to save water because they are in the business of selling water. Theoretically that is certainly legitimate, but it is also true that Sydney Water has been responsible in water conservation. However, there is this notion that in the long run those corporations will not feel an obligation to save or reduce sales.

This bill will pull contributions out of those corporations and have them administered independently to ensure that there is no conflict of interest. An energy advisory council for the Energy Savings Fund consisting of representatives of electricity customers, electricity businesses, the energy services sector, environment groups

and government agencies, will ensure that most of the $40 million is applied in a contestable fashion. The council will advise the Minister and the Department of Energy, Utilities and Sustainability on priority areas for the fund and review those priorities to take into account a change in conditions and the success of the various energy-saving projects; it will also monitor, review and report to the Minister on the overall performance of the fund against the established objectives. Regular public calls for expressions of interest will be made for the Energy Savings Fund to ensure that we support the best ideas for the New South Wales public and businesses. Selection criteria for funding support will focus on ensuring that the greatest savings are made. Funding will be made available predominantly through a contestable pool to promote value for money.

The larger proportion of the fund will be allocated to contestable programs, and the primary criterion in choosing who gets that money will be based on who delivers the biggest saving for the same dollar. In other words, the key criterion will be value for money. A proportion of both funds will be allocated to other programs, such as residential programs, promotional programs, support for industry innovation, and so on. But the bulk of the funds will be allocated to contestable, practical projects that will deliver outcomes in the near to medium term.

The critical part is that we will not fund projects that otherwise would have happened. It is important to assist projects that might otherwise not have occurred by supplementing or supporting capital expenditure. It will not be recurrent subsidies, it will be up-front contributions with appropriate mechanisms to ensure that the project comes to fruition. Likewise with water, a similar advisory committee will assist to set priorities and allocate funds to the greatest need. The allocation committee will set up interagency processes to test the value of the different proposals.

Again, we want to allocate the contestable portion of the funds, which will be most of them, to projects that give us the greatest saving in energy and the greatest saving in water. We are talking about potable water. There are plenty of worthy schemes that use water for other things, but if it does not relate to potable water it will not make the cut. This is about saving potable water, drinking water. A question was asked about how the contributions would be raised. Already Sydney Water is spending $15 million on that. It will be asked to apportion that money into the fund. After the IPART examination, that will be augmented to ensure a $30 million program for four years.

In the case of energy, a contribution will be required from EnergyAustralia, Integral Energy, and Country Energy. It will come from the distribution network providers, determined on the basis of their contribution to greenhouse but also on the basis of where the funds are likely to be spent. It is likely that the funds will be spent predominantly in the business sector in both cases because that is where we think we will get the biggest savings and the biggest gains. Accordingly, that will be factored into how we decide what proportion is to be contributed by each of the three energy companies.

So far as the funding of the Australian Energy Market Commission is concerned, there was agreement at a national level by the Ministerial Council on Energy that the regulator should be funded by the imposition of a national levy. The National Electrical Code Authority [NECA] currently is funded by voluntary contributions from the industry. NECA will cease to exist and its functions will be divided between two bodies: the Australian Energy Regulator, which will be an adjunct to the Australian Competition and Consumer Commission [ACCC], and the Australian Energy Market Commission. Because of constitutional problems associated with the imposition of a levy nationally and the Federal Government's reluctance, for constitutional and political reasons, to facilitate such a move, a uniform national levy will not be applied. However, the original decision of energy Ministers was that there should be a uniform national levy to fund national regulation.

The position of New South Wales is quite simple. The Australian Energy Regulator, which accounts for the bulk of the cost to the extent of approximately $30 million per annum, should be funded by the Federal Government, just as it funds the ACCC. The Australian Energy Regulator will be funded by the Federal Government, period. The Australian Energy Market Commission, in which the Federal Government plays a less significant role, formulates policy for the electricity market and it will be funded by the States. Each State will be able to choose how it provides funding, but New South Wales, consistent with its earlier position on the national levy, will fund its proportion of the cost of the Australian Energy Market Commission from the Energy Savings Fund. The cost is estimated to be in the order of $3 million per annum out of a total cost of $40 million, which is a minor proportion of the total cost.

The Local Government and Shires Associations expressed concern that the energy and water conservation plans, but particularly the water conservation plans, will be extended to local water utilities, and

there are 106 of them in New South Wales. As I explained when I met with the associations—and the amicable agreement that was struck is the basis of an amendment which I foreshadow will be moved at the Committee stage—the Government has no intention of creating 106 funds and administering 106 different arrangements for water conservation plans across 106 water utilities in New South Wales. Such a scheme would be administratively impractical and may result in relatively low benefits in many cases. However, it may be that some water utilities perceive advantages in the creation of a fund to promote water conservation and may want the Government to confer power to enable them to establish conservation plans. That is why water conservation plans will be available for individual utilities. For example, an individual scheme may be appropriate for the Hunter Corporation, which is a State-owned corporation.

However, I foreshadow that at the Committee stage I will move an amendment to require prior consultation with local water utilities and the Local Government and Shires Associations, should it be decided that a water conservation plan will apply to a particular water utility. While such a facility will be available, it is clearly not the intention of this legislation that water conservation plans will apply a cross the State because the return for administrative effort simply does not warrant the broadscale application of such a policy. I do not think that any Minister or any Government would implement such a proposal.

The honourable member for Wagga Wagga referred to a whole range of issues associated with BASIX, including its cost effectiveness. I listened carefully to what he had to say. I am not sure that his assertions are correct, but I will check his speech to ascertain whether a peculiar set of circumstances relates to some country towns. However, I point out that BASIX has been extremely well received throughout the State because it is a very sensible tool. All the residential architects and developers are using it and it will drive massive reform. It will create a market for water conservation products that will greatly enhance measures to reduce water consumption, not only in relation to new dwellings but also for existing housing stock. BASIX is a terrific initiative.

Apart from the amendments I have already referred to, there are a number of technical amendments arising from discussions with the Local Government and Shires Associations. One concern is the effectiveness of customer supply contracts and whether contracts containing exclusion clauses will exclude a State levy or any statutory levy. On legal advice, the Act will be amended slightly to ensure that exclusion clauses will not apply retrospectively. However, any contract entered into after 6 April, which is when this bill was introduced, will not exclude the operation of the provisions of this bill. Another technical amendment was suggested by the Independent Pricing and Regulatory Tribunal [IPART] and will apply to facilitation of IPART's role in the administration of contracts.

The amendments are merely technical, yet the Opposition has indicated its intention to oppose them. For the life of me, I cannot understand why the Opposition would do so. Much of what the Opposition has said is purely politics. I know that members of the Opposition believe, in their heart of hearts, that this legislation is a good idea and is a sensible way of extracting savings in water and energy resources consumption in Sydney, and that it will be a very important part of the Metropolitan Water Plan. It concerns me that for political reasons the Opposition has chosen to oppose the bill, because this legislation represents a very worthwhile, sensible and sound initiative that provides for energy saving plans and water-saving plans and, in a measured way, requires the largest users of resources to address issues of energy and water conservation while providing financial incentives to implement conservation strategies. This bill represents a very balanced approach to conservation, which will have a minimal or minor impact upon consumers. I remind the House of what previous speakers have said and previous figures that have been cited.

Mr Thomas George: It is a strong and detailed plan.

Mr FRANK SARTOR: It is a strong and detailed plan. In New South Wales, regular residential and business consumers of electricity are paying $55 less than their interstate counterparts. In most cases New South Wales consumers pay $200 less than their interstate counterparts. For example, New South Wales consumers pay $205 less than Melbourne electricity consumers, which represents a saving to New South Wales consumers of 20 per cent. New South Wales has a very cost-effective electricity industry. This State's comprehensive energy plan will soon be released. This legislation is important in addressing the efficiency and consumption side of resources management so it is important for this legislation to be implemented from 1 July. This legislation is designed to ensure that resources are not wasted, but the community also stands to make quite substantial savings. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.10 p.m.]: I move Government amendment No. 1:

No. 1 Page 8, schedule 1 [7], proposed section 34J. Insert after line 32:

(4) If a State water agency to which an order under subsection (1) is to apply is a local water utility within the meaning of the *Water Management Act 2000* but not a State owned corporation, the Minister must consult with each of the following before making the order:

(a) the State water agency,

(b) the Local Government and Shires Associations of New South Wales.

Amendments are proposed to section 34J of the Energy Administration Act to ensure that consultation with local government occurs if additional water-savings areas are declared. Initially contributions to the Water Savings Fund will come from Sydney Water and be used to fund water-saving measures with Sydney Water's area of operations. Local councils within Sydney Water's area of operations will be eligible to apply for funding. The Energy Administration amendment (Water and Energy Savings) Bill provides for other water-saving areas to be declared by regulation.

This provision simply recognises that water-saving initiatives may be needed in future in other parts of New South Wales. There will be consultation before any council-owned water utilities are declared a water-saving area in future. I have made this clear at a recent meeting with the Local Government and Shires Associations and am proposing an amendment to the bill to that effect. I do not propose to debate the amendment any further.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [8.11 p.m.]: The Opposition supports the aims of the bill, which provides incentives for water and energy savings. However, the Opposition disagrees with how the incentives will be funded. Disagreement in relation to funding of the proposed water and energy savings funds is to the Government's preferred method of increasing water and power bills, and the objection is on two grounds. Firstly, the Government, now in its eleventh year, has not properly planned for power and energy demand versus supply. It has failed to invest in infrastructure, despite a golden flow of revenue for at least the first nine years of its tenure. Each and every year it has received approximately $1 billion over and above budget revenue.

That revenue should have been invested in, for example, better stormwater collection, better waste water re-use, investigation into desalination—about which, belatedly, we have heard something, but very scant detail—and additional power generation, especially in relation to alternative or non-coal fired generation. Despite that golden flow of revenue, we have seen no investment. The Labor Government is now asking consumers to foot the bill to fund marginal power and water savings, simply to buy the Government time to deal with the fundamental issue of supply of power and water versus demand.

Secondly, the Opposition will not agree to consumers funding those savings plans through higher charges on power and water bills because Labor has ruthlessly milked water and energy utilities to prop up its poor financial management with that money going into the State budget bottom line instead of being reinvested in infrastructure or, indeed, directed towards the type of savings fund proposed in the bill. By all means, the savings funds should be established, but fund them from the hundreds of millions of dollars being ripped out of Sydney Water, Integral Energy, Country Energy and EnergyAustralia, rather than hike up the water and power bills of the State's long-suffering taxpayers. Having said that, The Nationals and the Liberal Party do not oppose Government amendment No. 1. It is only commonsense that there be consultation with the key stakeholders: the related utilities and local government.

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.15 p.m.]: I am pleased that the Coalition supports this amendment although I am disappointed that it keeps repeating the same old hoary chestnuts. A stream of revenue has to be allocated to create those funds; they do not come out of thin air. This is a very modest contribution and, in the case of water, the funds are already

there. The funds will be simply reallocated from Sydney Water's current expenditure on those sorts of programs. As to the dividends, we all know that taxes and dividends and the community service obligations are separate arrangements that occur across Australia as part of the national competition policy and competitive neutrality.

Also there is a great degree of hypocrisy when one considers that in the Coalition's last five years of government it took $445 million out of Sydney Water and $1.4 billion out of the energy companies. It is pointless to suddenly say that this is a terrible sin and that we should reallocate that money. Those dividends, as with any shareholding, go back to the State for the benefit of the people of New South Wales. They will go into important programs for the people of New South Wales. Let us just stick to the issues. This consultation provision is simply to involve local government if in future it is proposed to extend any of the programs in respect of water to local government. I commend the amendment to the Committee.

Amendment agreed to.

Schedule 1 as amended agreed to.

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.17 p.m.], by leave: I move amendments Nos 2 and 3 in globo:

No. 2 Page 22, schedule 2.4 [1], proposed section 42B (3) (a), lines 23 and 24. Omit all the words on those lines. Insert instead:

(a) any customer supply contract entered into before 6 April 2005 that contains a provision in force before that date that expressly precludes payment of additional charges for the supply of electricity under it, or

No. 3 Page 22, schedule 2.4 [1], proposed section 42B. Insert after line 26:

(4) A provision of any customer supply contract entered into on or after 6 April 2005 that:

(a) expressly precludes the payment of costs of the kind referred to in section 42C (1), or

(a) otherwise precludes the payment of additional charges for the supply of electricity under it, is of no force or effect to the extent that it would, but for this subsection, preclude a retail supplier from recovering under this Part costs of the kind referred to in section 42C (1) from the customer.

(5) Any Fund contributions recovered under this Part by a retail supplier from customers are to be disregarded for the purposes of applying clause 7 of Determination No 1, 2004 made by the Independent Pricing and Regulatory Tribunal in June 2004 and set out in its report entitled *NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07: Final Report and Determination*, (ISBN 1 877049 49 2).

Amendment No. 2, amends section 42B of the Electricity Supply Act to ensure that retailers can pass through costs related to contributions to the Energy Savings Fund to all customers with the exception of those who have a current supply contract that specifically precludes payment of additional charges for the supply of electricity. An additional amendment also clarifies that any customer supply contract entered into on or after the bill was introduced into Parliament on 6 April 2005 cannot expressly preclude a retail supplier recovering costs related to contributions to the Energy Savings Fund.

Amendment No. 3, amends section 42B of the Electricity Supply Act to ensure that standard retail suppliers have sufficient capacity to pass through network charges that have increased in size because of contributions to the Energy Savings Fund. The amendment states that any fund contributions recovered under this part from a regulated retail customer are to be disregarded for the purpose of applying clause 7 of the Independent Pricing and Regulatory Tribunal's [IPART] 2004 retail determination. Clause 7 of the determination defines the head room that regulated retailers have to increase tariffs. Excluding fund contributions from that calculation will ensure that retailers have sufficient scope to pass through any network charges without breaching the clause. This was recommended by IPART to ensure that we do not cut across its most recent determination. I commend the amendments to the Committee.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [8.18 p.m.]: As foreshadowed, the Opposition does not support, indeed strenuously opposes, amendments Nos 2 and 3. The amendments provide the legislative vehicle for the Carr Labor Government to be able to force charges onto electricity and water consumers; thus power and water bills for familles are set to rise. Why are they set to rise? Because there has been insufficient planning by the Government in relation to demand for energy and water, and insufficient investment in infrastructure for utilities over the past 10 years under this Government. The Minister did a pretty good impersonation of Sir Joh Bjelke-Petersen when he referred to dividends and said, "Don't you worry about that."

Mr Frank Sartor: You have got Joh on the brain.

Mr ANDREW STONER: Joh was a great Premier who invested in infrastructure in his State, which is why there is a gangbuster economy in Queensland and why the New South Wales economy is lagging to the extent that it is. This is not about dividends per se. The Minister pointed out that former governments have taken the dividends and taxes from utility companies. This Government has done that. The question is: What does it do with them? What does it do with the money that it reaps from utilities?

The Opposition is saying that the shareholders, which equates to the Government, should be reinvesting that money to provide for the future energy and water needs of this State rather than simply seeking to pass it on to the long-suffering taxpayers who are already well and truly slugged over and above the taxpayers in other States. If that involves creating an energy and water savings fund, that is a pretty legitimate use for that money. Businesses are the big energy and water users in this State. New South Wales already has an uncompetitive environment and those businesses are fleeing to other States. New South Wales has the highest property taxes—

Mr Frank Sartor: We are making greater savings.

Mr ANDREW STONER: That is questionable. The Minister's office has been unable to provide me with proof of that. Businesses are fleeing to other States because of higher workers compensation, higher payroll tax, property tax and regulation. We have to become competitive again. Slugging people with more and more taxes is not the solution. The Opposition stands up in particular for low-income earners in this State. We have only to look west of the range, where the drought is in its fifth year in some places. People do not have extra money to pay their power and/or water bills. I know that it applies only to Sydney Water at the moment, but it will also be extended to country water users.

The Opposition stands up for pensioners, who already struggle to pay their power and water bills, and it stands up for public housing tenants who, for the first time, are about to be asked to pay for their water bills. This will be another impost on them. We are saying that by all means savings funds pursue greater efficiencies. They are a good idea. We are simply objecting to the method of funding those savings funds. This Government is listening to economic rationalists, bureaucrats and Treasury officials who are saying, "The user pays." This Government has had plenty of money over the past 10 years. Why does it not fund these schemes?

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.23 p.m.]: I wish to respond to the argument put forward by Opposition members relating to insufficient planning and investment in energy.

Mr Andrew Stoner: What did the Auditor-General say?

Mr FRANK SARTOR: He complimented the Government on its plan and said it was a good plan that addressed all the issues. When it comes to energy this Government has spent $3.1 billion alone on the distribution system over the past five years. It will also spend $4.8 billion over the next five years.

Mr Andrew Stoner: How much did you reap?

Mr FRANK SARTOR: A lot less than that. If we add transmission, this Government will be spending $6.2 billion over the next five years. These are record increases. In real terms it is a lot more than the Opposition ever spent when it was in government. This Government has made a substantial investment in generation. Moreover—and wait for it—another strong and detailed plan is coming over the horizon. It is the energy plan, which will knock Opposition members' socks off. The energy plan is coming—just wait for it—and it is part of this Government's framework. We have had a green paper, a comprehensive Metropolitan Water Plan and a comprehensive energy plan. When we are talking about higher costs, Opposition members forget that this Government expects there to be $370 million in savings to consumers. There will be investment of $200 million and savings of $370 million.

Mr Andrew Stoner: Not to the average household.

Mr FRANK SARTOR: Overall there will be substantial savings for consumers. In other words, this will reduce revenues, reduce costs to people in the community and reduce the costs of doing business.

Opposition members cannot lie straight in bed. They cannot help themselves. They always have to try to put a bit of a slant and a spin on everything. The simple fact is that this is an honest and transparent way of doing things.

Mr Andrew Stoner: I trust you, Frank.

Mr FRANK SARTOR: I am pleased that the Leader of The Nationals trusts me.

Mr Andrew Stoner: I do not trust your Government. You are frank; it is not.

Mr FRANK SARTOR: I am frank; I am the Minister. I am putting this proposal forward in an honest and earnest way. This transparent and accountable fund, which we have never had before, will make a significant contribution. There will not be any conflicts of interests. We will be able to deal with this proposal. As these amendments are technical the Independent Pricing and Regulatory Tribunal has advised me in relation to them. I commend the amendments to the Committee.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 46

Mr Amery	Mr Greene	Mr Pearce
Ms Andrews	Ms Hay	Mrs Perry
Mr Barr	Mr Hickey	Mr Price
Mr Bartlett	Mr Hunter	Dr Refshauge
Ms Beamer	Ms Keneally	Ms Saliba
Mr Black	Mr Knowles	Mr Sartor
Mr Brown	Mr Lynch	Mr Scully
Mr Campbell	Mr McBride	Mr Shearan
Mr Collier	Mr McLeay	Mr Stewart
Mr Corrigan	Ms Meagher	Mr Watkins
Ms D'Amore	Ms Megarrity	Mr Whan
Mr Debus	Ms Moore	Mr Yeadon
Mrs Fardell	Mr Morris	
Ms Gadiel	Mr Newell	*Tellers,*
Mr Gaudry	Mr Orkopoulos	Mr Ashton
Mr Gibson	Mrs Paluzzano	Mr Martin

Noes, 28

Mr Aplin	Mr Merton	Mr Souris
Ms Berejiklian	Mr Oakeshott	Mr Stoner
Mr Constance	Mr O'Farrell	Mr Tink
Mr Debnam	Mr Page	Mr Torbay
Mr Draper	Mr Piccoli	Mr J. H. Turner
Mr Fraser	Mr Pringle	Mr R. W. Turner
Mrs Hancock	Mr Richardson	
Ms Hodgkinson	Mr Roberts	*Tellers*
Mrs Hopwood	Ms Seaton	Mr George
Mr Kerr	Mr Slack-Smith	Mr Maguire

Pairs

Ms Allan	Mr Cansdell
Miss Burton	Mr Hazzard
Mr West	Mrs Skinner

Question resolved in the affirmative.

Amendments agreed to.

Schedule 2 as amended agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.33 p.m.]: I move:

That the report be now adopted.

The House divided.

Ayes, 46

Mr Amery	Mr Greene	Mrs Paluzzano
Ms Andrews	Ms Hay	Mr Pearce
Mr Barr	Mr Hickey	Mrs Perry
Mr Bartlett	Mr Hunter	Dr Refshauge
Ms Beamer	Ms Keneally	Ms Saliba
Mr Black	Mr Knowles	Mr Sartor
Mr Brown	Mr Lynch	Mr Scully
Mr Campbell	Mr McBride	Mr Shearan
Mr Collier	Mr McLeay	Mr Stewart
Mr Corrigan	Ms Meagher	Mr Watkins
Ms D'Amore	Ms Megarrity	Mr Whan
Mr Debus	Mr Mills	Mr Yeadon
Mrs Fardell	Ms Moore	
Ms Gadiel	Mr Morris	*Tellers,*
Mr Gaudry	Mr Newell	Mr Ashton
Mr Gibson	Mr Orkopoulos	Mr Martin

Noes, 28

Mr Aplin	Mr Merton	Mr Souris
Ms Berejiklian	Mr Oakeshott	Mr Stoner
Mr Constance	Mr O'Farrell	Mr Tink
Mr Debnam	Mr Page	Mr Torbay
Mr Draper	Mr Piccoli	Mr J. H. Turner
Mr Fraser	Mr Pringle	Mr R. W. Turner
Mrs Hancock	Mr Richardson	
Ms Hodgkinson	Mr Roberts	*Tellers,*
Mrs Hopwood	Ms Seaton	Mr George
Mr Kerr	Mr Slack-Smith	Mr Maguire

Pairs

Mr West	Mr Cansdell
Miss Burton	Mr Hazzard
Ms Allan	Mrs Skinner

Question resolved in the affirmative.

Motion agreed to.

Report adopted.

Third Reading

Mr FRANK SARTOR (Rockdale—Minister for Energy and Utilities, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer), and Minister Assisting the Premier on the Arts) [8.40 p.m.]: I move:

That this bill be now read a third time.

The House divided.

Ayes, 47

Mr Amery	Mr Gibson	Mr Orkopoulos
Ms Andrews	Mr Greene	Mrs Paluzzano
Mr Barr	Ms Hay	Mr Pearce
Mr Bartlett	Mr Hickey	Mrs Perry
Ms Beamer	Mr Hunter	Dr Refshauge
Mr Black	Ms Keneally	Ms Saliba
Mr Brown	Mr Knowles	Mr Sartor
Mr Campbell	Mr Lynch	Mr Scully
Mr Collier	Mr McBride	Mr Shearan
Mr Corrigan	Mr McLeay	Mr Stewart
Mr Crittenden	Ms Meagher	Mr Watkins
Ms D'Amore	Ms Megarrity	Mr Whan
Mr Debus	Mr Mills	Mr Yeadon
Mrs Fardell	Ms Moore	*Tellers,*
Ms Gadiel	Mr Morris	Mr Ashton
Mr Gaudry	Mr Newell	Mr Martin

Noes, 28

Mr Aplin	Mr Merton	Mr Souris
Ms Berejiklian	Mr Oakeshott	Mr Stoner
Mr Constance	Mr O'Farrell	Mr Tink
Mr Debnam	Mr Page	Mr Torbay
Mr Draper	Mr Piccoli	Mr J. H. Turner
Mr Fraser	Mr Pringle	Mr R. W. Turner
Mrs Hancock	Mr Richardson	
Ms Hodgkinson	Mr Roberts	*Tellers,*
Mrs Hopwood	Ms Seaton	Mr George
Mr Kerr	Mr Slack-Smith	Mr Maguire

Pairs

Mr West	Mr Cansdell
Miss Burton	Mr Hazzard
Ms Allan	Mrs Skinner

Question resolved in the affirmative.

Motion agreed to.

Bill read a third time.

ELECTRICITY SUPPLY AMENDMENT BILL

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

WORKPLACE SURVEILLANCE BILL

Bill introduced and read a first time

Second Reading

Mr BOB DEBUS (Blue Mountains—Attorney General, and Minister for the Environment) [8.46 p.m.]: I move:

That this bill be now read a second time.

The Workplace Surveillance Bill aims to create a sensible and practical system for regulating workplace surveillance by employers of employees. Before I go into the detailed provisions of the bill, it would be useful to briefly remind honourable members of its history. In 1998 the Government introduced the Workplace Video Surveillance Act 1998, which established a new system of regulation for video surveillance in the context of employment. The Act arose out of a number of industrial disputes over video surveillance by employers and was the result of extensive consultations between employee and employer organisations. The Act was the first of its kind in Australia.

The Workplace Video Surveillance Act 1998 essentially prohibits video surveillance in the workplace unless certain notice requirements are satisfied, or a magistrate has authorised covert video surveillance to establish whether employees are involved in any unlawful activity. In 2003 submissions to the statutory review of the Workplace Video Surveillance Act 1998 were received from both industrial organisations and employer groups, and none identified significant deficiencies in the Act or its operation. The Workplace Surveillance Bill that I have introduced, was, therefore, modelled on the Workplace Video Surveillance Act 1998. The bill repeals and replaces the Workplace Video Surveillance Act 1998, which applied only to video surveillance. In general, it takes the Workplace Video Surveillance Act 1998 as a template and extends its provisions in a number of ways.

In June 2004 I tabled an exposure draft Workplace Surveillance Bill to provide unions, employees and the owners of small and large businesses the opportunity to have input into the development of a comprehensive commonsense solution to new workplace surveillance issues. A large number of submissions were received and the exposure draft bill has been amended to take into account numerous concerns of stakeholders. As the use of technology has grown, it has become apparent that the provisions of the Workplace Video Surveillance Act were not wide enough to protect employees from intrusive acts of covert surveillance. People are concerned that what they consider to be essentially private communications by way of email may end up being intercepted and read by employers. Technological advances allow small tracking devices to transmit movements outside of the traditional workplace and the capture of every word typed into a computer.

This bill ensures that employees are made aware of any such surveillance. It extends to computer surveillance—surveillance of the input, output or other use of a computer by an employee— and tracking surveillance—surveillance of the location or movement of an employee. It restricts and regulates the blocking by employers of emails and Internet access of employees at work. It extends beyond the traditional workplace to any place where an employee is working. In common with the Workplace Video Surveillance Act 1998 the bill creates a general prohibition on surveillance by employers of their employees at work unless employees have been given notice of the surveillance in accordance with the bill, or unless the surveillance is carried out under the authority of a covert surveillance authority issued by a magistrate. Covert surveillance authorities can only be issued for the purpose of establishing whether or not an employee is involved in any unlawful activity at work.

The bill regulates the carrying out of surveillance under a covert surveillance authority, and the storage, use and disclosure of covert surveillance records. It does not create an enormous burden on employers. While it is true that the notification regime seeks to ensure that employees are made aware of any surveillance being conducted by an employer, notification is not itself an onerous requirement. Essentially, the bill promotes transparency in the workplace, obliging employers to be open about surveillance practices.

I turn now to the major provisions of the bill. Part 1 contains preliminary matters such as definitions. It defines "covert surveillance" to be any surveillance by an employer of an employee while at work for the employer that is not in compliance with the notification requirements in part 2. In effect this creates a presumption that surveillance is covert unless the notification requirements are met. An employee is considered to be "at work" when they are at a workplace of the employer, or if they are anywhere else while performing work for the employer.

"Surveillance" is defined to cover "camera surveillance", "computer surveillance" and "tracking surveillance". In each case there must be "surveillance", as that term is commonly understood. "Camera surveillance" is surveillance by means of a camera or other electronic device that monitors or records visual images of activities on premises or in any other place. This includes "still" photographs. "Computer surveillance" is surveillance by means of software or other equipment that monitors or records the information input or output, or other use, of a computer. It includes the sending and receipt of emails and the accessing of Internet websites. It does not cover normal business practices such as back-ups of hard drives, because this is not normally a "surveillance" activity. However, if back-ups were to be used to conduct surveillance, for

instance to facilitate the reading of somebody's emails, that would need to be notified under part 2, otherwise it would be considered to be covert surveillance. I will return later to the issue of computer surveillance as it has generated the most comment in submissions to the draft exposure bill.

"Tracking surveillance" is surveillance by means of an electronic device the primary purpose of which is to monitor or record geographical location or movement. This has been amended from the exposure draft to focus on things such as global positioning system [GPs] devices which allow real-time tracking of an object's location. This is to ensure that "tracking surveillance" does not capture things like mobile phone or credit card records that may incidentally show an employee's location. The definitions of "employer" and "employee" take their meaning from the Industrial Relations Act 1996 and include people performing voluntary work and people working under labour hire contracts.

Part 1 also spells out that requirements imposed by or under the Occupational Health and Safety Act 2000 do not limit or otherwise affect the operation of the bill. This is to remind employers not to use occupational health and safety issues as an excuse for conducting covert surveillance. Should an employer believe they need to urgently conduct covert surveillance for occupational health and safety reasons, they should use the existing occupational health and safety consultation regime—under part 2, division 2 of the Occupational Health and Safety Act 2000—to get agreement for any surveillance. Clause 14 of this bill makes it clear that such an agreement will ensure that any such surveillance will not be considered covert, notwithstanding that none of the notification requirements of part 2 have been met.

Part 2 outlines the notification requirements for surveillance not to be considered covert. Essentially, employees must be given written notice 14 days prior to any surveillance commencing. This notice, which can be sent via email, must indicate the kind of surveillance to be carried out; how the surveillance will be carried out; when the surveillance will start; whether the surveillance will be continuous or intermittent; and whether the surveillance will be for a specified limited period or ongoing. An exemption applies in the case of camera surveillance of an employee working somewhere that is not their usual workplace. That is to ensure that large employers, with many workplaces, are not required to notify individual employees each time they happen to go to a different workplace, for instance to attend a meeting.

Each of the three types of surveillance also has additional requirements. For "camera surveillance" cameras used for the surveillance, or camera casings or other equipment that would generally indicate the presence of a camera, must be clearly visible in the place where the surveillance is taking place. Signs must also notify people that they may be under surveillance in that place and must be clearly visible at each entrance to that place. These mirror the requirements under the Workplace Video Surveillance Act 1998. For "computer surveillance" the surveillance must be carried out in accordance with a policy of the employer on computer surveillance. The policy must be notified in advance to an employee in such a way that it is reasonable to assume that the employee is aware of and understands the policy. For "tracking surveillance" there must be a notice clearly visible on the vehicle or other thing that is being tracked, indicating that the vehicle or thing is the subject of tracking surveillance.

As previously mentioned in relation to occupational health and safety issues, clause 14 allows an exemption from these requirements where employees, or a body representing a substantial number of employees, have agreed to the use of the surveillance for a purpose other than surveillance of the activities of employees and the surveillance is carried out in accordance with that agreement. For instance, employees may agree that a workplace be the subject of camera surveillance under an industrial agreement.

Part 3 outlines prohibitions on surveillance. Clause 15 prohibits surveillance of employees in change rooms, toilets, showers or other bathing facilities at a workplace. Clause 16 prohibits the continuation of surveillance when an employee is not at work, except computer surveillance of the use by the employee of equipment or resources provided by or at the expense of the employer, such as laptops, internet accounts, email accounts, network resources, information systems. This will ensure, for instance, that employers will not be prevented from conducting computer surveillance of work laptops, to ensure that pornography is not being downloaded.

Clause 17 provides that an employer must not prevent the delivery of emails or block access to Internet web sites unless this is in accordance with a policy that has been notified in advance to an employee in such a way that it is reasonable to assume that the employee is aware of and understands the policy. Employees must also be notified of any blocked emails, unless an exemption applies. The exemptions extend to emails that are believed to be spam, as defined by the Spam Act 2003 of the Commonwealth, or believed to contain viruses,

trojan horses, or offensive and harassing material. However, an employer's policy cannot provide for the blocking of email or access to a web site merely because the content relates to industrial matters.

Part 4 provides the regulatory framework for covert surveillance of employees at work. These provisions have been based on those in the Workplace Video Surveillance Act 1998. It will be an offence for an employer to carry out, or cause to be carried out, covert surveillance of an employee while at work for the employer unless the surveillance has been authorised by a covert surveillance authority. Covert surveillance authorities may only be issued for the purpose of establishing whether or not one or more particular employees are involved in any unlawful activity while at work for the employer. They do not authorise the covert surveillance of an employee for the purpose of monitoring an employee's work performance, nor in any change room, toilet facility, shower or other bathing facility.

There are exceptions for law enforcement agencies, correctional centres, casinos and legal proceedings. These mirror the exceptions in the Workplace Video Surveillance Act 1998. It will not be an offence for an employer to carry out covert surveillance solely for the purpose of ensuring the security of the workplace or persons in it. This will apply if there was a real and significant likelihood of the security of the workplace or persons in it being jeopardised if the covert surveillance was not carried out and the employer had notified employees of the intended surveillance. This also mirrors the provisions in the Workplace Video Surveillance Act 1998. Applications for covert surveillance authorities are to be made to magistrates. Applications must include the following information:

(a) A statement of the grounds the employer has for suspecting that particular employees are involved in unlawful activity, together with the names of those employees (unless it is not practicable to name them). This is needed to justify that the authority should be issued. The employer must have some evidence to substantiate any suspicions.

(b) A statement as to whether other managerial or investigative procedures have been undertaken to detect the unlawful activity and what has been their outcome. This is necessary to ensure that covert surveillance is not always the first and last option considered by an employer. There may be other, simpler and less intrusive ways to deal with suspected crime in the workplace in the first instance.

(c) The names of the employees or, if it is not practicable to name them, a description of the group or class of employees who will regularly or ordinarily be the subject of the covert surveillance. This is to help the surveillance supervisor be aware of who will be subject to the covert surveillance so that any covert surveillance does not extend beyond reasonable bounds.

(d) A description of the premises, place, computer, vehicle or other thing that will regularly or ordinarily be the subject of the covert surveillance.

(e) A statement as to the kind of covert surveillance—camera, computer or tracking—that is proposed to be conducted.

(f) The dates and times during which the covert surveillance is proposed to be conducted. This is to control the operation of the authority and ensure that the surveillance is not conducted as an open-ended operation.

(g) A statement as to whether any previous application for a covert surveillance authority has been made in respect of the proposed covert surveillance and a statement as to the results of the application and of any covert surveillance conducted under a covert surveillance authority issued as a result of the previous application.

(h) In the case of an application made by an employer's representative, verification acceptable to the magistrate of the employer's authority for the person to act as an employer's representative for the purposes of the covert surveillance operation.

The magistrate can require further information, and applications are to be dealt with in closed court. The magistrate must not issue a covert surveillance authority unless satisfied that there are reasonable grounds to justify its issue. In making such a determination the magistrate will take into account matters such as the strength and seriousness of the employer's suspicions, what other actions the employer has taken to investigate these suspicions, and the invasion of privacy that employees will suffer as a result of the surveillance. The bill sets a tougher test if an employer wishes to place under surveillance a recreation room, meal room, or any other part of a workplace in which employees are not directly engaged in work. This mirrors the Workplace Video Surveillance Act 1998.

The Workplace Video Surveillance Act 1998 contained a requirement that a person holding a Class 1 licence issued under the Security (Protection) Industry Act 1985—since repealed by the Security Industry Act 1997—oversee the conduct of authorised covert video surveillance. Class 1 licences were issued, among other things, to people employed to install electronic equipment designed to provide security or watch property. A similar licence requirement has not been included in this bill. Instead, a magistrate must be satisfied that the person designated to act as a surveillance supervisor under a covert surveillance authority has qualifications or experience that suit the person to be responsible for overseeing the conduct of the surveillance operations.

It is important to note that the requirements of the Commercial Agents and Private Inquiry Agents Act 1963, the Commercial Agents and Private Inquiry Agents Act 2004, and the Security Industry Act 1997 are not affected by this bill. People will still need to obtain the appropriate licences required under these Acts for activities covered by them. Simply having a covert surveillance authority will not absolve someone from any other legal requirement to hold a private inquiry agents licence or security industry licence when conducting surveillance or installing surveillance equipment.

Covert surveillance authorities will be in the form prescribed by the regulations. They will specify information relevant to the covert surveillance, such as the type of surveillance, the names of the people suspected of unlawful activity, the dates and times during which the surveillance is authorised, the places and things that are to be the subject of the surveillance, the names of the designated surveillance supervisors, the period the authority remains in force, the period for which the authority remains in force, and the conditions to which the authority is subject.

Covert surveillance authorities remain in force for a period not exceeding 30 days, as specified in the authority. They are subject to conditions mirroring the conditions in the Workplace Video Surveillance Act 1998. In brief, they require that surveillance supervisors can only give employers access to those portions of surveillance records relevant to establishing the involvement of employees and others in unlawful activity, that surveillance supervisors must erase or destroy all parts of a surveillance record, not required for evidentiary purposes, within three months of the expiry of the authority, and that employees must be provided with access to covert surveillance records that are to be used in taking detrimental action against the employee. Contravention of a condition of a covert surveillance authority, or causing the contravention of a covert surveillance authority, is an offence. Covert surveillance authorities can be varied or cancelled by a magistrate, who must keep a record of all relevant particulars of any issue, variation or cancellation of an authority. Again, this mirrors the conditions in the Workplace Video Surveillance Act 1998.

A report must be given to the magistrate on the use of a covert surveillance authority within 30 days after the expiry of the authority. Failure to provide a report will be an offence. The report must set out briefly the result of the surveillance and specify other details as required, including any reasons why an employee who was the subject of the surveillance should not be informed of the surveillance. The magistrate may then make such orders as considered appropriate with respect to the use or disclosure of any surveillance record, including that the record be delivered up to the magistrate or that the surveillance record be given to a particular person or body.

A magistrate must make an order informing a person who was the subject of the surveillance unless there is good reason not to. In determining this, the magistrate is to consider whether the surveillance was justified and whether it was an unnecessary interference with privacy. Covert surveillance records must be properly stored and protected against loss or unauthorised access or use. Failure to do so will be an offence. Covert surveillance records must only be used or disclosed for a relevant purpose. Other uses or disclosures will be an offence.

Where covert surveillance has been authorised, the bill makes it clear that it is acceptable for the records to be used as authorised or required under the conditions of the covert surveillance authority; to establish whether an employee is involved in unlawful activity while at work for the employer; to take disciplinary action or legal action against an employee as a consequence of alleged unlawful activity while at work for the employer; to establish security arrangements or take other measures to prevent or minimise the opportunity for unlawful activity while at work for the employer of a kind identified by the surveillance record to occur while at work for the employer; to avert an imminent threat of serious violence to persons or of substantial damage to property; to disclose to a law enforcement agency for use in connection with the detection, investigation or prosecution of an offence; and for purposes related to the taking of proceedings for an offence or for taking any other action required or authorised under the bill.

This is to ensure that covert surveillance records are not used for frivolous, vexatious, or any other irrelevant purposes. Where covert surveillance of an employee has not been authorised, use or disclosure is only allowed for a purpose related to the taking of proceedings for an offence or by and to law enforcement agencies for any purpose in connection with the detection, investigation or prosecution of an offence. Part 5 contains

miscellaneous provisions, including that appeals are to be heard by judicial members of the Industrial Relations Commission, that the Minister is to report to Parliament each year on covert surveillance authorities issued during the year, and that regulations may be made by the Governor. Schedule 1 has savings and transitional provisions, including that surveillance records and information obtained before commencement are not subject to clause 36, concerning the use of covert surveillance records for relevant purposes only.

I wish finally to return to computer surveillance. Numerous concerns have been raised about the intention to cover computer surveillance. I will therefore pay particular attention to this aspect of the bill. There is an urgent need for a new system of regulation for the surveillance of computer communications, which strikes a fair balance between an employer's right to limit the use by employees of a computer network provided in the workplace, and the employees' reasonable expectation of privacy. Some blocking of electronic communications by employers is clearly desirable—for example, to prevent employees from receiving spam, viruses or offensive material. However, there have reportedly been cases where employers have caused messages relating to trade union activities to be blocked.

Consistent with the general scheme of the bill, it will be an offence for an employer to monitor an employee's use of email and the Internet unless certain notice requirements are satisfied, or a covert surveillance authority is obtained from a magistrate. The notice requirements for computer surveillance are not onerous. They do not require notices on computers or a notice each time an employee logs on to a computer. During consultation, employers indicated that the prescription of such requirements would be costly, especially for small business. Some employers indicated they already had in place suitable, but different, notification systems for ensuring that employees were aware of their computer, Internet, and email surveillance policy.

The bill places an obligation on employers to ensure that employees are notified of any computer surveillance and email and Internet access policy in such a way that it is reasonable to assume that the employee is aware of and understands the policy. This is surely best practice and should not trouble employers. An example of such a system for a larger employer is one including induction and training courses and regularly emailed reminders. An example for a small business is individual discussion of the employer's policy with each employee and placing the policy on a work noticeboard.

Employers will also be required to give notice to an employee on any occasion when an email message sent by or to the employee is blocked, that is, prevented from reaching its intended recipient. Notice is not required if the email has been blocked because it was spam, contained a virus, or was harassing or offensive, for example, if it is pornography. It will be unlawful for an employer to block an email message, or access to a web site otherwise than in accordance with the employer's stated policy on email and Internet use or solely because the message or web site includes information relating to industrial matters. While employers need to be able to monitor emails received by their employees, the indiscriminate use of that technology can result in breaches of employee privacy. We are seeking to address these competing interests in a sensible and workable manner.

A number of amendments were made to the exposure draft bill to take account of concerns raised in submissions on the draft bill. The amendments include the introduction of more flexibility into notification procedures, assurance that the use of antivirus and antispam software is not affected, clarification that an employer has to give notice of its computer surveillance policy only and not notice of every individual act of computer surveillance, the allowance of accepted business practices, and provisions to address the use of work computers at home.

In conclusion, the Government considers, as it did with the Workplace Video Surveillance Act 1998, that this bill provides an appropriate balance between workers' expectations of privacy and the genuine concerns of employers to protect their workplaces from unlawful activity by regulating the use of covert surveillance of employees at work. I commend the bill to the House.

Debate adjourned on motion by Mr Daryl Maguire.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DEVELOPMENT CONTRIBUTIONS) BILL

Second Reading

Debate resumed from 8 December 2004.

Ms PETA SEATON (Southern Highlands) [9.14 p.m.]: I lead for the Opposition in the debate on the Environmental Planning and Assessment Amendment (Development Contributions) Bill. At the outset I indicate that the Opposition has significant concerns about the detailed provisions of the bill and the regulations

pertaining to it. Therefore the Opposition will seek clarification and guarantees from the Minister in relation to some aspects. In the context of this debate it is important to recognise the economic significance of developing the building industry to the New South Wales economy. It is also important to understand that a healthy, robust building and development industry is essential not just to the wellbeing of the people of New South Wales in the provision of affordable housing with the range of different housing choices for the people of this State, but also because the building and construction industry is one of the biggest drivers of employment in this State.

The building and construction industry provides jobs not only directly through home building activity but also indirectly in the supply and provision of building materials and the raw materials that go into building products. The building and construction industry is one of the most important industries in New South Wales. In recent times considerable alarm has been caused by significant decreases in building approvals between February and March this year. In some areas the decreases were 30 per cent. The people of New South Wales have witnessed the introduction of the Carr Government's vendor duty and the abolition of the threshold for land tax and the impact that those imposts have had on jobs and employment.

There is also a home affordability crisis in New South Wales. In the past year or so the mean price of a house in the Sydney area has hovered around the $500,000 mark, which is an enormous amount for a family to pay for a roof over their heads. Land release in New South Wales, but in Sydney in particular, has been too slow under this Government. Under the Greiner Government, approximately 10,000 lots were released for development each year but the number is now down to less than 4,000 a year and probably closer to 3,500 a year, which does not nearly meet the demand for greenfields housing sites in the greater metropolitan area.

There has also been insufficient investment in infrastructure in New South Wales, which has resulted in the Carr Government trying to load onto mum and dad home buyers all the costs associated with developing an area—and not just to meet the cost of providing a bus stop, upgrading local playing fields, or providing additional public toilets or public facilities.

Families now have to shoulder the costs of all the heavy infrastructure in an area because those costs are being loaded onto the cost of a block of land. The honourable member for Camden is in the Chamber and I look forward to his contribution to this debate because he would know that people buying blocks of land in his electorate, which is a wonderful area in which to live, are paying between $80,000 and $100,000 in levies in addition to the cost of the land, and that is before they lay even a single brick on their block of land. Over the past 10 years the Government's failure to sufficiently invest in infrastructure has taken a toll on mum and dad property buyers as well as on investors in this State. The Bringelly debacle is a case in point.

New releases of land in south-western Sydney, which will result in the development of 90,000 new home sites, are still subject to delays associated with the level of infrastructure the Carr Government suggests is needed in the area and the level of personal contribution or development contribution that will be required to cover approximately $7 billion in infrastructure costs. At this point there has been no commitment by the Government to a rail link to the Bringelly area, apart from it saying that a rail link might be possible in 12 to 15 years time. Home building companies are shying away from development opportunities in Bringelly.

A number of very well respected larger home building companies in New South Wales—companies that one would expect would take an interest in opportunities afforded by 90,000 new home sites at Bringelly—are looking at the levies that the Carr Government is considering putting on each home site in Sydney's south-west. They are simply saying that it does not stack up commercially. Those builders have a commitment to environmental sustainability and to taking advantage of the opportunities of scope and scale to produce good designs and diversity in choice in home styles, ranging from medium and higher densities around transport nodes to the more traditional family home with a backyard. I would like to see those builders play a very important role in the division for and development of wonderful new communities in south-west Sydney.

The Environmental Planning and Assessment Amendment (Development Contributions) Bill must be seen also in the broader context of the current planning environment of New South Wales. The skills crisis has also been a developing concern nationally, but particularly in New South Wales. Australian Business Ltd [ABL] has raised this matter on a number of occasions, and I look forward to continuing discussions with ABL on how my Coalition colleagues can help solve the New South Wales skills crisis.

It is important also to look at what is happening to the cost of home building. A report by the Housing Industry Association in September 2004 stated that because of a scarcity of building tradespeople in a range of trades, the skills crisis in New South Wales was pushing up the price of those tradespeople. Bricklaying trades

experienced the largest price rise, up nearly 11 per cent over the quarter. Plumbing trades were experiencing skills shortages and raising the cost of building a home in New South Wales. Trade availability in a range of essential skills and home building has decreased in New South Wales. Among the trades that decreased are bricklaying, ceramic tiling, electrical, general building, joinery, painting, plumbing and site preparation. If we continue to have a scarcity in those skill categories, obviously the cost of building a home will continue to rise.

The development contributions bill must be seen also in the context of the crisis in the New South Wales Government, where there is paralysis in planning decisions in the Department of Infrastructure, Planning and Natural Resources [DIPNR]. The lack of a metropolitan strategy is a case in point. I congratulate all stakeholder groups that worked so hard in contributing their ideas and their innovations to the preparation of a metropolitan strategy, which the Premier and the Minister for Infrastructure and Planning promised would be ready last December, and then in March or April. It is now May, and there is still no metropolitan strategy. A month or so ago, during an estimates committee hearing, the director-general of DIPNR said there was never going to be a document called "the metropolitan strategy"; rather, it would be an evolutionary thing that would be made up along the way.

There is no certainty in any planning by the Government as to how growth in Sydney can be accommodated, or how the infrastructure, water management, transport or land release problems can be solved. I acknowledge the great work of Professor Ed Blakely in the development of the work to date on the metropolitan strategy. In New South Wales we are very lucky to have had someone of the academic and professional calibre of Professor Blakely make his time available to help on this extremely important project to develop a plan or strategy for Sydney. I had the opportunity to spend time with Professor Blakely to talk about opportunities to enhance Sydney and its planning even further, to make the most of our wonderful natural resources, our great position, and our great intellectual and social capital of New South Wales.

I take this opportunity to congratulate Professor Blakely on the work he has done to date, and to encourage him to continue. I note my personal disappointment that on a number of occasions the Government, as reported in the media and elsewhere, has been less than enthusiastic in embracing the opportunities offered by Professor Ed Blakely. It would be a great shame if the skills of someone of his calibre were lost to New South Wales and this planning process. Failure to pin down the metropolitan strategy has caused problems in my area. No doubt other members of this place will have examples of local government wanting DIPNR to sign off on the draft local environmental plan [LEP] so that they, local community groups, residents, and developers have some certainty. That is not happening.

An example in my area is the Wollondilly, Wingecarribee and Goulburn Mulwaree planning processes, part of the very important Hume corridor, for which the Government said it wanted to prepare a strategy. Wingecarribee Shire Council has been told that an LEP will not be looked at or finalised for the next couple of years. Wollondilly council is trying to finalise a number of elements of its planning process that will lead to a new LEP. The honourable member for Burrinjuck shares my concern about the lack of Government certainty in finalising its plans for the Hume corridor. The honourable member for Burrinjuck and I have met regularly with the mayor of Goulburn Mulwaree Council, Councillor Paul Stephenson.

We have facilitated meetings between DIPNR and general managers and mayors of councils in Wollondilly and Wingecarribee to try to get the Government to understand that we need planning instruments to be finalised. We need certainty so we can move forward and so developers know what the opportunities are and where they can and cannot propose projects. We need certainty so that residents know where conservation areas will be allocated, and where the limits are to growth in our villages and towns, and what our water supply plans and carrying capacities will be. We need to know what the State Government wants us to prepare ourselves to deal with in order to bear our share of the New South Wales growth.

We are not getting any of those signals from DIPNR or the Minister, and that is causing a great deal of difficulty. I have already mentioned the tax crisis, which forms much of the environment within which much of this developer contributions bill is operating. The new vendor tax introduced by the Carr Government last year and the removal of the threshold on land tax has caused enormous hardship to mum and dad investors across the State. Those provisions have killed the property market. I recommend that Government members read the report by Access Economics that was released a couple of weeks ago. The report shows that if the vendor tax were abolished tomorrow, the increase in other economic activity in the State that has been killed off by the effects of the vendor tax, the claw-back in revenue, would be between $140 million and $200 million. That would go a long way towards replacing the revenue that the Government is expecting to raise from that tax. The revised forecast of that revenue is $350 million.

I have already mentioned that councils are struggling to find the certainty they need to finalise documents in their areas. Staffing in councils is very difficult, and councils are struggling with delays in approvals from DIPNR. I have mentioned the infrastructure crisis and the collapse in building approvals, which are down 30 per cent since last month. Most importantly, in considering the bill we need to understand that the Carr Government's new taxes, introduced in the last mini-budget, are causing investment and jobs to flee this State and go to our competitor States, Queensland and Victoria, which have much more attractive investment conditions.

One has only to see where the Premier bought his investment property—New Zealand—to realise that he knows New South Wales is not the place in which to invest because the costs are simply too high. What has been the effect of that flight of capital and jobs? The national unemployment rate in Australia is 5.1 per cent but the unemployment rate in New South Wales is 5.5 per cent, the highest in the country. Compare that to Queensland, our neighbour to the north, where the unemployment rate is 4.3 per cent. The history of this bill highlights the Government's inaction and incapacity to make decisions.

Honourable members will recall that the original version of this bill, the planning agreements bill, was introduced last year. When that bill was debated in this House I referred to the fear of additional levies being imposed on developers. I also made the point that it was nonsense to deal with the bill at that time when the section 94 task force appointed by the Minister was still deliberating and considering what recommendations it should make to the Minister on the future of the section 94 payment system. Opposition members made the point that it was ridiculous to conclude debate on the planning agreements bill until such time as they had had the benefit of the recommendations from the section 94 task force.

The section 94 task force comprised industry stakeholder groups and other representatives and experts in the area of section 94 contributions. It made sense to us to wait until we saw what that expert panel had to say about section 94 payments before we passed a bill that potentially would conflict with or duplicate its recommendations. When the Opposition threatened to move an amendment to defer debate on the bill until the section 94 reports were complete, the Government went to water and pulled the bill in the upper House. The work of the section 94 task force is now complete. I congratulate the stakeholder and industry groups that made such a great contribution to the thinking in that committee. They spent many hours and gave up a lot of their valuable time.

That resulted in the creation of the draft exposure bill—the Environmental Planning and Assessment (Developer Contributions) Bill—which we are now considering. If the Government had been fair dinkum it would have given me a copy of that draft exposure bill to look at. It did not, which I think was fairly petty and puerile. I eventually got a copy of the draft exposure bill. Despite some industry concern about some of the details in the bill, industry believes that it represents an improvement on a bad situation that needed change. Nevertheless, concerns have been expressed about some aspects of the bill.

The objects of the bill are to extend the means by which planning authorities can get money from developers to pay for public amenities and services. The current major vehicles for this are the section 94 levies in the Environmental Protection and Assessment Act. This bill formalises or amends the following contribution options. First, it maintains section 94 levies. It allows section 94 levies to be sent across local government area boundaries and it allows for borrowing between section 94 levy funds. It sets up a 1 per cent flat levy based on development costs and it introduces voluntary planning agreements. I have already mentioned the history relating to this bill but I would like to know what the Government says about the next point I am about to make.

When the bill was first introduced I recall the Hon. Henry Tsang stating in another place that it was important that the bill be passed quickly as there was some issue about GST and tax clarity arguments in it. That argument seems to have magically disappeared. I would like to hear from the Minister why that issue disappeared. I think it was more of an excuse for the Government in the early version of the planning agreements bill. It now realises that that argument was not going to stack up. The Environmental Planning and Assessment Act enables section 94 payments to be compelled from applicants for the provision of certain infrastructure related to the new demands generated by that development. Consent hinges on the finalisation of section 94 payments. These can be challenged at the exhibition stage.

Until now developer and planning agreements were usually entered into for very large projects. Industry representatives say that they can produce good community outcomes and add selling points to a development. Some councils have also entered into voluntary developer agreements in examples such as North Sydney, where space bonuses are being given in return for levies to fund infrastructure like station upgrades. I

believe that Green Square is probably an example of that. Developer agreements are also part of developments such as Penrith Lakes. They can go above and beyond the scope and quality required by section 94 payments, for example, non-capital added costs such as recurrent expenditure on affordable housing, heritage maintenance and child care services, and capital works such as recreation facilities, transport, or set aside land for open space.

Developers are generally in favour of the idea as a flexible voluntary option between them and the authorities. It can mean that the development has more quality and that there is more interest in the design. A development could add a lot more to a community outcome than it otherwise might. Flat levies are a special type of levy in special situations, for example, in the city of Sydney, where it is hard to measure the impact of a particular development, such as a new skyscraper, on the area. The City of Sydney has a legislated flat rate levy of 1 per cent of the cost of the development in section 61 of its Act instead of section 94 contributions. Key features of the development contributions include that councils or groups of councils can prepare a contributions plan and include section 94 contributions in it.

The bill formalises planning agreements as an additional option. In other words, we can have a planning agreement and a section 94 agreement. They are voluntary agreements. They are registered and added to the land title. They cannot be appealed and they cannot be a condition of a development application. Anyone approved by the Minister can be a beneficiary of a planning agreement and planning agreements must be publicly exhibited. The bill introduces a new 1 per cent flat rate levy option as an alternative to section 94 payments. Both cannot be levied at the same time. A flat rate levy can exist with a planning agreement. The bill retains section 94 levies for construction or cost recoupment for infrastructure, but it enables them to be levied across council boundaries. For example, if a development on the boundary of a council increases the demands on the local government area next door, that council can share in some of the benefits of that levy.

It also allows lending or transfers between section 94 accounts to enable projects to be completed sequentially rather than have a number of accounts all collecting contributions to particular projects like a swimming pool, sports field or some other facility, which take a long time to get to. Section 94 levies do not include water or sewerage charges and other environmental infrastructure can still be required to be delivered, such as transport levies. Those are the sorts of levies that add to the cost of blocks of land in areas like Bringelly, as I just mentioned. I know that people in the Camden area sometimes bear the cost of additional transport levies. Some of the arguments in favour of the bill include that it formalises developer agreements in legislation, which gives more certainty to the rules of this emerging new tool.

The bill assists in the funding of much-needed infrastructure and better ways to fairly capture value in redevelopment. It can give greater flexibility to developers and councils in the ways in which they spend section 94 payments by borrowing between accounts to get projects completed faster. Industry representatives have raised a number of concerns to which I would like to refer tonight. The Industrial Design Institute of Australia has been arguing for some improvements to the detail of this bill. The Property Council of Australia, the Housing Industry Association and the Urban Task Force have had consultations with the Government in relation to the bill.

Concerns about planning agreements include that they extend contributions to services and recurrent payments, and monitoring of development impacts relating not only to hard infrastructure; they could provide more revenue categories for councils or authorities to treat as mandatory rather than optional formats—one of biggest concerns about planning agreements; and although they are voluntary, concern has been expressed that councils might just see them as another box to tick and another revenue source.

There is a lack of clarity about what constitutes "public purpose". The definition of "developers" also lacks clarity, leading to the concern that if a council is a developer for the purpose of a planning agreement with the Minister, other landholders could be compelled to meet obligations that they did not agree to. There is no appeal. Linking planning agreements to rezonings can place developers in a highly disadvantageous position in negotiations. Some industry representatives have said that they would prefer planning agreements to be referable to a panel rather than to a court or the Minister if disputes arise about the extent of the council's requirements.

The Department of Infrastructure, Planning and Natural Resources says that there would be no need to repeal a voluntary agreement but some industry representatives are concerned that this leaves no resolution mechanism 12 months or so into an agreement. Planning agreements are applicable to both capital and recurrent expenses. The Government must tell us more about how long they would apply, particularly to recurrent expenses. For example, what will happen in 20, 30 or 50 years in the administration of these agreements? The scope of public purpose is very broad and can include affordable housing and money for ongoing monitoring and recurrent costs, for example, for museums and community services.

There are also concerns about the flat levy and the fact that the maximum flat levy rate will be in regulation rather than the legislation. According to the Minister's second reading speech, this levy will be 1 per cent, as in the City of Sydney. But we all know that regulations can be changed easily and industry would certainly prefer to have the rate enshrined in legislation rather than in regulation. A better definition is needed of which development costs will be assessed for the flat levy. I understand that these will also be in regulation. No nexus proof is required but some industry representatives want it to be linked to proof of higher demand being generated by a particular development in that environment. There are concerns that the levy will apply to refits and redevelopments that do not change the overall demand generated by a building in its environment or increase the floor space. There are no appeal rights. Yet again we are yet to see much of the detail in the regulations.

Concerns about the section 94 levies and contribution plans include what "reasonable" means. Cross-boundary levying and borrowing between accounts may weaken the nexus between the development and local infrastructure. There are concerns that guidelines and ministerial directions will not cover sufficiently accountability and reporting issues. Industry is seeking some level of mandatory reporting. No time limits are set for spending and some industry representatives suggest that there should be a five-year limit in this area. Again, we are yet to see the details of the regulations and we would prefer that the Act not apply until those regulations are in place.

The Opposition will not oppose the bill but we have a number of significant but reasonable concerns that the Government has yet to address. The lack of detail about public availability of the draft regulations continues to be of particular concern. There is no doubt that this area needs reform and that we must make some changes to the way that development contributions are made. There is certainly a lot to be said for increasing flexibility. I hope that this will enable some of our very good, innovative and visionary developers to think outside the square and produce some excellent designs that result in a better quality of life and better sustainability in our built environment, particularly in greenfields areas of Sydney. The Opposition does not oppose the bill but we look forward to the Government answering our concerns.

Mrs KARYN PALUZZANO (Penrith) [9.43 p.m.]: I would often use the phrase "clear and concise" in my lecture notes and during my marking at university. A number of points in the speech of the honourable member for Southern Highlands were not what I would call clear and concise but I agree that the resources she mentioned are important to the building industry. Penrith rocks are a great resource and we are crushing them and building roads. I suggest that the honourable member for Southern Highlands look at a development contribution plan. She claimed that there is hocus-pocus in the formatting of levies but the plans are well researched and the planners do their jobs. The Lakes Environs (Waterside Green) contribution plan for Penrith contains several pages about contribution rates and calculations. This work is not performed in isolation: They look at what, how and when to contribute.

I am pleased that the honourable member for Southern Highlands said that the Opposition will support the Environmental Planning and Assessment Amendment (Development Contributions) Bill—so we agree on something. I thank the Minister for Infrastructure and Planning, and Minister for Natural Resources and the Section 94 Contributions and Development Levies Task Force for formulating the Environmental Planning and Assessment Amendment (Development Contributions) Bill. I dedicate my speech in support of the bill to the planners at Penrith City Council, particularly Rodger Nethercote and Ruth Goldsmith. We disagreed often when I was a councillor. I have three children but when I was a mother of two, I asked the council planners at a meeting—I was not a member of any political party then and I certainly was not a councillor—whether there was a section 94 plan in our local area to provide resources. I live in the older, established area of Kingswood, in the Penrith electorate. I was told that there was not, and it was a great shock to me. When I saw the greenfield sites of Penrith at Claremont Meadows, Glenmore Park and Cranebrook, the contribution plans and the facilities that were being added to those communities, I did not think it was very equitable.

I conducted some research into section 94 and discovered that the Act had changed in 1993 to allow contributions. However, in 1997 Penrith City Council did not have a city-wide or older, established areas plan. That prompted me to become more politically active. I joined a political party and off I went. In 1999, shortly after my election to Penrith City Council my colleagues and I suggested that we consider applying section 94 in the older, established areas. I am proud to be speaking to this bill in May because on 8 May 2000 our first contribution plan for brownfields sites or older, established areas was established for library facilities. So every developer who developed brownfields sites in Kingswood, Cambridge Park, Central Penrith, Emu Plains and Cranebrook contributed money for libraries. That was the first step and it was probably an ambit claim.

However, my colleagues and I believed we could do better so on 7 May 2001 we devised the Section 94 and the Established Areas Plan, the Footpath Construction and Established Residential Areas Plan and plans for open space and for the Kingswood Neighbourhood Centre. This mother of two from Kingswood asked for a contribution plan for a neighbourhood centre back in 1997 but we did not get it until 2001. That was quite an achievement. A couple of days before my inaugural speech in May 2003 the next contribution plan was produced for cultural facilities. The Joan Sutherland Performing Arts Centre was being constructed with $6 million in State funding and $6.11 million from Penrith City Council. It took four years—from 1999 to 2003—for the council to establish a cultural facilities plan. So I am glad that we are introducing this bill in May 2005.

I support the Environmental Planning and Assessment Amendment (Development Contributions) Bill. It makes a number of significant changes—which the honourable member for Southern Highlands outlined and supported—to the New South Wales planning system in relation to the collection of development contributions. The bill will make the system for collecting development contributions more transparent and responsive to community needs—which is what I focused on in council; before then we were told there was no nexus between where we were living in established areas and a contribution plan. It took a number of years to provide that nexus with the contribution plan, and it is ensuring faster and more efficient delivery of important local infrastructure and facilities. Those who live in established areas in the Penrith local government area have enjoyed their library facilities, walking on footpaths, open space and the Kingswood Neighbourhood Centre which was opened in 2003.

The amendments will provide councils with several different ways to collect development contributions by recognising voluntary planning agreements, and by allowing the levying of a fixed percentage of development costs, in addition to the collection of development contributions as a condition of a development consent. Reforms to the administration of the system for applying development contributions will significantly help to free up approximately $800 million currently held in section 94 accounts by councils around New South Wales, enabling faster delivery of infrastructure.

Another important reform will enable those contributions to be applied to provide infrastructure across different local government borders where appropriate. Section 94 of the Environmental Planning and Assessment Act is the principal provision that enables councils to levy contributions for public infrastructure amenities and services which are required as a consequence of development in their local areas. As we all know, development in local areas is very important. I have outlined the pre-2000 to post-2000 Penrith City Council area. We now have post-2000 contribution plans across the city, not only on our greenfield sites but also on our brownfields sites.

Developer contributions may be applied to fund the provision of new infrastructure or facilities in a new area. In Penrith it can be applied to wide-ranging facilities such as the library, footpaths, open space, a neighbourhood centre, local roads, drains, child care facilities and parks. Since 1993 councils have only been able to levy section 94 contributions if they have prepared and exhibited a contribution plan. This exhibition is to ensure both consistency and transparency applicable to section 94 of the Environmental Planning and Assessment Act. That section has been under review for some time, and in response to concerns raised by the community, the development industry and local councils, the merits of maintaining the existing system and making improvements have been explored. Alternative ways to collect contributions have also been investigated.

There has been consultation and review on this bill. The Section 94 Contributions and Development Levies Task Force, established in 2003, received submissions from interested stakeholders and held detailed discussions with stakeholders including industry and local government about the regime. For many people involved in planning and urban management, the current provisions of section 94 are seen to be too inflexible to deal with the realities of development in some areas. Penrith City Council has greenfield sites and brownfields sites, and the way that the levies can be outlined and collected appeared, before 2000, to be inflexible. But we got around that. So I welcome these changes.

It is clear that a differential approach to the levying of development contributions is needed. The amendments proposed in the bill will provide councils with more flexibility to deal with different types of sites where development might occur. It is interesting to note recommendation 13 of the final report of the inquiry by the Standing Committee on Public Works into the joint use and co-location of public buildings. The recommendation states that there should be "higher flexibility in applying section 94 resources, including cross-boundaries application of contributions". That shows that the task force was listening. The reforms proposed in

this bill will explain the means by which planning authorities can obtain a development contribution. While provisions are made for this under the existing section 94 scheme in the Act, a council now has other options.

The honourable member for Southern Highlands mentioned the Penrith Lakes scheme, which is a development that could use a voluntary planning agreement. Councils will now be able to obtain development contributions through a defined system of voluntary planning agreements. The introduction of voluntary planning agreements formalises current practice in some councils where the types of contributions that might be made in respect of a development are negotiated with the developer. Under such agreements, a developer may be required to dedicate land for public use free of cost, pay a monetary contribution, or provide other public facilities.

Planning agreements work particularly well for large-scale developments, for example, Penrith Lakes. They have longer time frames and will be developed in stages. Penrith Lakes are being formed by quarrying, and for many years the crushed river rocks have been distributed as road base or building materials. The legacy of those quarries is the formation of more than 700 hectares of lakes that contain the same volume of water as Sydney Heads to the Sydney Harbour Bridge. There will also be urban and light commercial development in that area. We already use Penrith Lakes.

The land which the Sydney International Regatta Centre and Penrith Whitewater Stadium occupy is reclaimed land in the original quarry area, so it has already been dedicated back to the community and the State of New South Wales. The Penrith Lakes Environmental Education Centre and Mirru Mittigar are based there, and it is important that we allow flexibility. The process must be transparent, accessible and fair to all parties. The regulations will provide for effective public participation and accountability and will protect the regulatory independence of the planning authority involved in negotiating the agreements.

Fixed percentage levies also apply and they are important to older, established areas in the Penrith electorate, for example, Kingswood, Kingswood Park, central Penrith and Emu Plains. Under the terms of this bill, councils also will have the option of requiring developers to pay a percentage of the cost of carrying out the development. They know which older areas are zoned but they do not know the needs of the community when the development occurs. The flat percentage levies can play a role in established urban areas where growth rates and development patterns are slow and unpredictable, and the accrual of section 94 contributions funds is slow. For example, we had to deal with that to get the Kingswood Neighbourhood Centre built.

It will be up to councils to determine which approach—traditional section 94 contributions, voluntary planning agreements or the imposition of flat percentage levies—best suits particular needs and the type of development it is considering. Another welcome feature of the bill is borrowing between section 94 accounts. As I outlined, in the Penrith City Council area we had contribution plans for all sorts of things in Claremont Meadows, Cranebrook and Glenmore Park. The amendments will recognise and regulate the sensible practices of some councils to borrow between section 94 accounts. As I mentioned, this initiative will free up approximately $800 million currently held by councils in section 94 accounts around New South Wales for priority infrastructure.

Borrowing between these accounts will enable local infrastructure facilities to be delivered much faster and for priority work to be advanced by councils, for example, child care facilities, roads and infrastructure and sporting facilities. I am also interested in cross-boundary contributions because my electorate covers a number of local government areas. Cross-boundary contributions is a welcome innovation, providing councils with the ability to apply different contributions across council borders—something that cannot be done now. The impacts of development, and the consequent need for infrastructure, services and facilities are not confined to council boundaries, for example, the Erskine Park Industrial Release Area that borders Penrith and Blacktown. Under the current arrangements we cannot provide a contribution plan for that area equitably but under the new, welcome provision of clause 94C, that difficulty will be overcome. I thank the Minister and commend the bill to the House.

Mr MICHAEL RICHARDSON (The Hills) [9.58 p.m.]: I want to make a brief contribution to the debate on the Environmental Planning and Assessment Amendment (Developer Contributions) Bill because it provides for certain changes which I have long advocated to the way section 94 contributions are administered. I think back to when I was first elected as Liberal candidate for The Hills in 1993, when I was taken to attend the opening of the temporary West Pennant Hills Community Centre in Culburra Avenue. That temporary facility—very cold in winter, and stinking hot in summer—was the first community centre to service the entire West Pennant Hills Valley since the commencement of development in the area some 13 years earlier. The permanent

community centre was not completed until 2000. So it was 20 years before the thousands of people living in the valley got a permanent community facility.

Unquestionably, it is a real problem to get community facilities in place at an early stage. The way section 94 has worked historically is that most of the money for a particular project has to be in before work can start on the project. That meant facilities lagged a long way behind construction of houses, and that works against building a sense of community. Some developers got round this through community title. The first example of that was at Liberty Grove, near Homebush Bay, which has its own swimming pools, gymnasium, tennis courts and parks. All of those facilities went in with the building of the first home. So, although there might have been only 40 or 50 homes there, all those facilities were already available. That was, of course, a selling tool for developers. It also meant that anyone fortunate enough to buy property and live in Liberty Grove was able to get access to those facilities from day one.

Home owners at Liberty Grove and any other place under the community title legislation have to pay a community levy for the upkeep of those facilities. As a result, the facilities are not available to the broader community. I know that has been a bone of contention in some areas. Section 94 still provides the most equitable way of funding playing fields, community centres, roads and libraries that are to be used by the broader community. Unfortunately, under current arrangements, section 94 contributions are compartmentalised. The honourable member for Penrith spoke about that at some length. Councils do shift money from one account to another, but no specific provision of the Act legitimises that action.

Because of the incredible rate of growth in the north-west sector, Baulkham Hills Shire Council is the richest council in the State. It has more than $100 million in its various section 94 accounts. That is more than 13 per cent of the total of $800 million that is held in section 94 accounts across the whole of New South Wales. That is an enormous amount of money. I checked to see what happened to the interest earned by that $100 million. In fact, it goes to the council's consolidated revenue. That provides an incentive for councils that have very large section 94 funds to go slow on providing those community facilities. I am not saying that the Baulkham Hills Shire Council does this. It properly has had money going into various areas with the fragmented development that has been going on in our area. But there is the incentive for some councils to do the wrong thing. Of course, that does not take into account inflation: the facilities initially budgeted for will, in the future, cost a lot more to build. Maybe, just maybe, the interest ought to continue accruing in the section 94 fund, or funds, so that the money can be applied to the purposes for which it was intended.

The amendments before the House will allow councils like the Baulkham Hills Shire Council to prioritise the provision of community facilities. The mayor of Baulkham Hills Shire Council, Sonya Phillips, assures me that this legislation will mean the council will spend more of its section 94 reserves in the future. That is why I am happy to support the legislation, because it will mean that the people of the community that I represent will have these facilities put in more expeditiously in the future. The bill also allows section 94 levies to be levied across local government areas. This is a sensible amendment, although it depends on the existence of goodwill between councils. If councils do not get on, as happens from time to time—in the same way as this Government does not always get on with Canberra—that amendment will not be effectively applied.

There is real concern about the cost of developing land. Local developers have told me that they are concerned that their section 94 contributions could go as high as $65,000 per lot, that is, for a block of land that might be only 500 or 600 square metres. Along with other government charges, such as a $15,000 transport levy and the Government's proposed betterment tax, that could push the cost of servicing the standard block of land in north-west Sydney as high as $135,000—and that does not include the cost of the land itself. Nor, of course, does it include the cost of building the house. When all of those costs are added to the inflationary effects of the Government's failure to release sufficient land, together with the developer's profit, one can understand how new homes in the outer suburbs, which have long been the staple of first-home buyers, could be priced out of the market.

The bill provides for planning agreements, in addition to or instead of section 94 contributions. I have concerns also about this provision being a backdoor way of councils imposing additional taxes on developers. Of course, those costs ultimately would be passed on to home buyers. The agreements can be used for non-capital costs, such as heritage of maintenance and child care services, but, importantly, they should be voluntary. The other issue I want to raise is that the bill does not set time limits for the spending of section 94 contributions. That is a problem for the reasons that I have outlined. This legislation should provide that those community facilities go in at an early stage of the development of an area or suburb, but the fact that the

legislation does not set time limits means it will not necessarily expedite the provision of those facilities. Apart from that, the bill mirrors proposals that I have put forward in the past, and that is why I am happy to support it.

Mr PAUL PEARCE (Coogee) [10.06 p.m.]: I support the provisions of the Environmental Planning and Assessment Amendment (Development Contributions) Bill. As the Parliamentary Secretary outlined in his second reading speech, the bill is an important reform of the New South Wales planning system. It seeks to put on a firm legal footing innovative mechanisms for the provision of essential local infrastructure and facilities. It seeks to overcome the encumbrances that currently exist under the provisions of section 94 of the Act. Since the amendments to the Act were enacted in 1993, section 94 has required the preparation of complex contributions plans, which have to be publicly exhibited and signed off. Whilst that ensured transparency, it also significantly limited councils' capacity to vary the utilisation of these funds in accordance with changing community needs and requirements.

The nexus requirement between the development, the section 94 plan and the facility or infrastructure proposed, has led to significant levels of inflexibility in the system. In many cases, local councils in need of funding for essential facilities have been unable to utilise section 94 funds, as the strict nexus requirements were not able to be met. It is estimated that there is potentially $800 million in such funds effectively locked up in tied section 94 contributions. The essence of the change proposed in new section 93E will allow councils to better manage their resources by allowing the internal borrowing against the section 94 funds collected to provide essential infrastructure and facilities when needed. Further, it will allow the better targeting of infrastructure and facilities to address increased demands occasioned by the cumulative impact of developments within a local community.

In addition, the amendments contained in the bill seek to put on a firm legal footing the practice of entering into developer agreements for the provision of specific infrastructure or facilities. The bill proposes to do so under the provisions of proposed section 93F. The entering into of agreements between the developer and the community through its elected council is often a more productive method of ensuring that facilities are provided when required. In addition, the agreements are able to ensure the allocation of funds for non-capital projects such as ongoing monitoring of environmental impacts of the development. It is essential that the developer agreements so entered into are formulated in an atmosphere of transparency. The amendments proposed will ensure that these developer agreements are voluntary and regarded as a legitimate way of playing a role in the development contribution system. The system proposed in the bill will ensure that the process is accessible to the public and that it is transparent. It will provide members of the community with the opportunity to comment on the proposed content of the planning agreements.

From my previous life as a local councillor and mayor of Waverley Council, I am experienced in the operation of this system. For many years Waverley Council has been utilising the system of developer agreements to advance social objectives and projects outside the accepted scope of section 94, albeit these projects and objectives were included in Waverley's advertised section 94 plan. In particular, Waverley has adopted the process of developer agreements to deliver to the community a range of housing options by utilising the planning powers under the statutory provisions of the Waverley local environmental plan [LEP] and the writing up of development agreements. In short, the system recognised that to address the affordability of housing in the Waverley local government area, greater provision of publicly owned or controlled housing stock was needed.

The Waverley LEP recognises varying floor space ratios, which recognise the provision of affordable housing within a development with the additional floor space benefit being divided basically 50:50 between the community and the developer. The system had a number of requirements to ensure transparency. First, the option of utilising the affordable housing provisions of the LEP for variations in development standards had to be identified at the commencement of the development application process by the developer. It could not be added further down the process to facilitate an approval that would otherwise have failed on the accepted assessment criteria under section 79C of the Act, or was in conflict with the provisions otherwise applicable to the site under the LEP or the standards contained within the time and control plan. This ensured that there was total transparency when the application was advertised to our community.

Second, the conditions of the development were contained within the terms of the consent, but the agreement provisions relating to housing provision were contained in a separate legally binding agreement. The system of developer agreements has resulted in a significant number of units of accommodation being provided to lower-income residents of the Waverley area, primarily older residents who have a long-term connection with the area but who are under severe housing stress due to escalating rents arising from the speculative property

market. Depending on the value of the additional floor space obtained within the development, which is assessed according to a sliding scale appended as a schedule to the Waverley LEP, the units of accommodation are either transferred to the council freehold or are rent capped for a number of years.

To ensure further transparency for the community of the management of these assets so obtained, the management of the properties is placed in the hands of a community housing association. Despite questions over the years as to the legality of the developer agreements scheme, it has never been challenged in the courts and it is recognised by all parties as a fair and legitimate way for the development industry, which is making substantial profits from the booming property market in Sydney's eastern suburbs, to meet the community's legitimate expectation that it give something back. The scheme has allowed the extraction of a social dividend from the profits developers are making from exploiting the existing publicly provided infrastructure and facilities. In my opinion, the developer agreement system is preferable to a developer simply lodging an objection under State environmental planning policy [SEPP] 1 to a development standard or standards, appealing to the Land and Environment Court, assuming council in exercising its consent powers chooses to reject the SEPP 1 objection, and pocketing the whole of the additional benefit.

As a matter of interest, some years ago when the inclusionary zoning provisions of the South Sydney LEP, which required a set percentage of new housing stock to be affordable, relating to the brownfields development sites in and around the old ACI site were successfully challenged in the courts, the developer expressed a preference for the Waverley approach. But the developer was Meriton, so I felt a little nervous about that. I will await the regulations, but I am confident that the experience of Waverley Council with developer agreements will provide a model for the operation of these agreements. The regulations will ensure safeguards to prevent abuse by any parties to the agreement. The essence of a successful scheme that avoids suggestions of duress or corruption has the requirement of voluntariness. Proposed sections 93C and 93F seek to ensure that. The overriding consideration as to the legitimacy of any agreement will be what is in the public interest. Proposed section 93F (2) identifies without limitation a range of examples of what would constitute a public purpose under the bill.

In particular, I cite with some satisfaction that proposed section 93F 2 (b) recognises that the "provision of (or the recoupment of the cost of providing) affordable housing" is a legitimate public purpose. The agreement once made becomes legally binding both on the initial signatories and any successors in title either of the initial applicant or subsequent purchasers of all or part of the land. This is provided for under proposed section 93H. As the agreement is entered into on a voluntary basis, the decision of a council or other consent authority not to enter into such an agreement cannot be grounds for an appeal to the Land and Environment Court. That is provided for under proposed section 93J, and it is consistent with the existing law that developers cannot appeal to the court on matters concerning development applications about which they have already agreed. However, it does not prevent either party from bringing civil proceedings to prevent a breach of the agreement.

As outlined by the Parliamentary Secretary in his second reading speech, the bill, under proposed section 94A, also makes provision for the imposition of a fixed-rate levy. That would be advantageous when, due to the nature of the development pattern in a given locality, growth rates are erratic and, as such, a traditional section 94 response would result in a slow accrual of funds. That would apply particularly to inner-urban and other fully developed areas. The proposal, as indicated in the second reading speech, will be to set a maximum rate of 1 per cent. This mirrors the provisions currently applying in the City of Sydney. Again, public advertisement and consultation is required before a council embarks on a fixed-rate levy scheme. Money collected, and expenditure of such money, must be publicly accountable.

The other aspect of the bill to which I will refer briefly is the ability of two or more councils to prepare a joint contribution plan, or the apportionment amongst the relevant councils of any monetary contribution required to be paid under any conditions of consent. That is provided for under proposed section 94C. The lack of ability under the current legislation to achieve this has resulted in inconsistent levels of contribution between council areas for essentially the same project. That has led to difficulties for communities by way of inconsistent provision of facilities or infrastructure arising from the additional demands occasioned by the development and developers who find themselves in the situation of having to negotiate two separate contribution requirements occasioning additional costs and time. The experiences of Waverley and Woollahra councils in managing the section 94 issues around the Westfield development in Bondi Junction are illustrative of the existing difficulties. The changes proposed by the bill will overcome some, if not all, of these issues. I commend the bill to the House.

Ms CLOVER MOORE (Bligh) [10.17 p.m.]: In view of the lateness of the hour and so that members will not be further fatigued, I intend to make only a short contribution to debate on the Environmental Planning and Assessment Amendment (Development Contributions) Bill. Section 94 of the Environmental Planning and Assessment Act 1979 permits consent authorities to levy contributions from developers to fund public facilities to meet the net increased demand from new development. Effective operation of the section 94 system is particularly important to maintain amenity in historic inner-city areas where existing infrastructure is ageing or inadequate for the dramatically increased housing densities that have resulted from the urban consolidation policies of successive governments.

Section 94 of the Environmental Planning and Assessment Act is a primary method available for councils to levy contributions for public amenities and services acquired as a consequence of development. This includes the provision of new facilities or the expansion of existing facilities. In response to concerns from councils and developers a review process was established, and in January 2000 a section 94 review committee reported to the former Minister for Planning, Andrew Refshauge. In 2003 the Minister responsible for the Department of Infrastructure, Planning and Natural Resources set up a section 94 task force to review how section 94 operates and whether alternative mechanisms may be established. Both councils and developers are concerned about the flexibility of the current system, although they support the intent and function of a well-administered section 94 system. Developers and councils argue that the current system is too inflexible to deal with planning uncertainties of development in some areas, and that a flexible approach to the levying of development contributions is needed.

My primary concern as the Lord Mayor of Sydney is to ensure that the present savings provisions for a 1 per cent levy in the central business district [CBD] under section 61 of the City of Sydney Act remain, and are not watered down or omitted because of this bill. As the CBD of Sydney, which is the capital of New South Wales, an international city, and in fact Australia's only global city, the area covered by the section 61 flat rate levy plan is not comparable to other areas of the State where section 94A may be an option. The regulations that will follow the passage of this bill have the capacity to limit the operation of these sections and are not yet publicly available for comment. For example, under section 61 of the City of Sydney Act, the City of Sydney council imposes levies on building fit-outs.

I am concerned about an expectation that the regulations for section 94A will prohibit the levying on building fit-outs and impose other limitations that may be later defined in the regulations before the city council has had the opportunity to comment. The city council's flat rate levy under section 61 of the City of Sydney Act is likely to differ from the bill's proposed section 94A. While noting the savings provisions in schedule 2, I seek an assurance from the Minister that the city council's current system will remain for the area covered by the Central Sydney Local Environmental Plan. It is not appropriate for the CBD of a major international city to be compared with suburban plans. I stress that the City of Sydney wants to ensure that the savings provisions under section 61 under the City of Sydney Act remain.

Recognising the role of voluntary planning agreements, this bill proposes standards for planning agreements between consent authorities and developers. Under the Government's proposed voluntary planning agreements, a direct nexus between development to which the planning agreement relates and the object of expenditure of any money required to be paid under the agreement is not required. Agreements can provide for infrastructure beyond that permitted by section 94. The consent authority may not refuse the development if the developer refuses to accept the planning agreement and it is not a precondition of consent. I am concerned about a weakening of the nexus concept that results in benefits being used in areas that are not affected by the development. The nexus concept must be strictly enforced to ensure that local communities experiencing the impact of new developments receive the benefit of section 94 contributions.

In terms of the provision of affordable housing, the creation of a State environmental planning policy [SEPP] under division 6A will be a more effective method than voluntary, ad-hoc planning agreements for councils. Shelter New South Wales has contacted me over concerns about the provision of affordable housing. I support the calls for development of a SEPP that specifically addresses the issue of affordable housing so that affordable housing is considered at the outset.

Section 94A allows for a fixed-rate levy for councils. The application of a fixed rate is likely to be most applicable for councils experiencing slow growth due to the unofficial suggestion that it will be limited to 1 per cent. For councils that are experiencing significant growth, the fixed rate of around 1 per cent will not be sufficient. Local councils will be able to decide whether they want to impose a levy or not. A consent authority cannot impose both a percentage levy and a section 94 developer contributions plan. They are mutually

exclusive. The task force found that a fixed rate levy can have a role when the volume of development does not justify the task of preparing a formal contributions plan or entering into a planning agreement. As a result, there does not have to be a connection between the expenditure of the levy and the levy. At the moment there is no provision for developments that have impacts and put pressure on neighbouring local government areas. Developer contributions may not be paid to a bordering local government area, which results in inequities. I welcome the attempt to allow cross-boundary levying by joint contributions plans.

Woollahra Municipal Council has contacted me to seek clarification of proposed section 94A (3). The council is not clear whether this section refers to the provision of new amenities or services through extension or expansion only, or whether it also includes the replacement of ageing infrastructure. Woollahra council is particularly concerned about drainage and roads. I ask the Minister to clarify whether proposed section 94A (3) includes the replacement of amenities. I conclude by saying that I generally support the bill. I request the Minister in his reply to confirm that the existing savings provisions for the Central Sydney Local Environmental Plan under section 61 of the City of Sydney Act will not be affected.

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [10.20 p.m.]: The Environmental Planning and Assessment Amendment (Development Contributions) Bill makes significant amendments to the developer contribution system established under the Environmental Planning and Assessment Act 1979. These amendments are critical to ensuring that local infrastructure may be funded properly and delivered more quickly to the community. This bill is all about the involvement of community interaction in partnerships between government and the community, and it recognises that contributions have to be made by developers to give effect to the establishment or supplementation of community amenities.

This amending bill is a response to concerns raised by the community, the development industry, and local government about the ways in which local infrastructure and services are funded and about the operation of the existing development contributions system. As other speakers have mentioned during this debate, the current ways of raising development contributions under section 94 are seen by both the development industry and councils as being too inflexible to deal with the uncertainties of development in some areas. That certainly is the case in the Bankstown electorate. Bankstown City Council, Canterbury City Council and Strathfield Municipal Council applaud the direction taken by this amending bill because it leads to a twenty-first century approach to the application of development contributions to the provision and maintenance of amenities. The bill addresses that concern, and also recognises some current practices of councils while providing a legislative basis and proper transparency and regulation.

The bill is based on the recommendations of the section 94 contributions and development levies task force that was formed by the Minister in 2003. I applaud the Minister for setting up the task force and for the work it has undertaken. Its brief was to look at efficient and equitable ways of funding local infrastructure as well as improvements in the day-to-day operation of the contributions system. As many honourable members know, developer contributions are levied by consent authorities, which are usually local councils, as a contribution to the cost of providing local infrastructure and facilities that will be needed as a consequence of the proposed development. The system of collecting developer contributions has been in place for a number of years and the review by the task force was timely.

The task force found that the basis for levying developer contributions at the local level remains legitimate and sound, and that the current system should be maintained. However, importantly, the task force also found that councils should be provided with different ways of collecting contributions from developers to provide the flexibility to respond to differences in the nature and location of the development. The essence of this bill is that it provides flexibility. The bill being debated picks up those findings by introducing voluntary planning agreements and flat-rate percentage levies as alternative methods for the collection of developer contributions.

Realising the lateness of the hour, I will briefly address planning agreements. The practice of entering into planning agreements to provide infrastructure and other types of public benefits is not new. Planning agreements have been in existence in some councils for a number of years. They enable a range of different types of contributions to be agreed between the developer and a council. For example, a developer may agree to dedicate land for public use free of cost, pay a monetary contribution to a council for the provision of local infrastructure or services, or provide any other type of public benefit. Voluntary planning agreements have emerged recently as a market response for development or redevelopment of large-scale sites in single ownership that have longer time frames and are likely to be developed in stages. That is certainly the case in relation to a number of sites in my electorate of Bankstown.

The impact on public infrastructure and the need for new infrastructure can be substantial. In those types of developments, the developer usually has a key interest in the delivery of public infrastructure, and voluntary planning agreements can be an effective tool for councils. This bill will be important in determining how contributions are applied in the future. Another form of development contributions dealt with by the bill is flat-rate levies, whereby levies are calculated as a fixed percentage rate of development costs in established urban areas. The bill also provides for borrowing between section 94 accounts to meet councils' needs for flexibility. After all, councils have to convince developers that they have a responsibility not only to maintain a high standard of construction in compliance with urban and regional strategies but also to ensure that developments contribute to the amenity of local areas, rather than simply contributing to lining developers' pockets.

Provisions in the bill related to cross-boundary levying also enhance flexibility and recognise the reality that developments can impact across local government areas. The sharing of those development situations is important. Again, the bill recognises that councils should not operate in isolated pockets. I strongly applaud the bill, which is very timely. Importantly, it recognises that developers have accountability and often want to use that accountability in a flexible way in conjunction with councils that support their local area needs. In the Bankstown electorate, Fairfax and News Ltd works at Chullora have provided a model for that approach through their investment in infrastructure and employment. I congratulate them on working with council some time ago on the initiatives that have been included in the bill.

The Waterford Estate residential development by Landcom resulted in the removal of longstanding contamination and derelict industrial buildings along the Bankstown railway line. They were replaced with a very attractive landscaped residential amenity. This bill will encourage local government to follow that example in partnership with developers, certainly in partnership with the State Government through the Minister. I congratulate him on his hard work in introducing the metropolitan strategy, which is now working. We have seen results of which we can be very proud. That strategy will sustain the future for local amenities for some time to come.

Ms KATRINA HODGKINSON (Burrinjuck) [10.31 p.m.]: The purpose of the Environmental Planning and Assessment Amendment (Development Contributions) Bill is to authorise in legislation a planning authority for a council or a government to obtain development contributions through planning agreements. The Opposition does not oppose the bill, and we have already heard comprehensive contributions by various members of the Opposition, including the honourable member for Southern Highlands. Members have given detailed summaries of the impact of the bill, and I will restrict my comments, for the most part, to representations I have received from a couple of councils. On 21 January 2005 I received a letter from Goulburn Mulwaree Council attaching a report that included its recommendation that I be requested to make representations to Parliament on council's behalf in the context of its report on the bill.

At a meeting on 18 January 2005 Goulburn Mulwaree Council reviewed the bill and endorsed its report on it. Generally, council supports the bill in principle and the greater flexibility it offers. However, the council shares the concerns raised by the Local Government and Shires Associations of New South Wales with regard to the fact that the council cannot initiate or negotiate, either by local environmental plan amendment or development consent, a planning agreement before a development application is lodged or a rezoning is commenced. Goulburn Mulwaree Council is concerned that as funds derived from section 94 levies are an important part of the council's revenue base, it would be worrisome if the amendments led to a substantial decrease in the amount of contributions it could collect.

The council's report detailed the overview of the bill and explained voluntary planning agreements. I am sure honourable members are comprehensively aware of those agreements, following the speeches made earlier this evening. The Goulburn Mulwaree Council's report contains comments on planning agreements [PAs], which it supports in principle. The report states:

- However the emphasis has been put on voluntary and the developer controls if an agreement will be entered into.

In this regard, it is noted that Council cannot direct either by an LEP amendment or development consent that a PA should be negotiated "upfront", before a DA is lodged or a rezoning commenced.

It is considered that this is unwarranted as the Minister has the control over procedures for negotiating and agreement requirements, including form, subject-matter and the making of PAs.

Provided there are checks and balances in the negotiating phase Council should have the right to direct either at the rezoning or development phase that a developer enter into negotiations with Council for the brokering of a PA.

Under the subject heading "Section 94 and 94A Provisions" the report states:

> (i) Section 94 will continue to enable the consent authority to impose a condition requiring the dedication of land or payment of monetary contributions or both provided it is justified by a Contributions Plan.
>
> (ii) Recoupment of costs is included, indexation calculation method is clarified, funds collected for different purposes may be pooled and applied progressively, conditions which benefits an adjoining local government are allowed, joint council Contributions plans are also allowed and there is a three month limit on questioning the validity of any procedure followed in making or approving a contribution plan.
>
> (iii) Proposed Section 94A allows Council to impose as a condition, a requirement that the applicant pay a levy of the percentage, authorised by a contribution plan of the proposed cost of carrying out the development. Other changes applicable to Section 94 will also apply to the "levy".
>
> Council cannot impose conditions pursuant to S94 and S94A, as conditions of the same development consent.
>
> **Comment:** The proposed amendments are supported.

Under the heading "Local Government Association's Position" the council's report states:

> The Local Government Associations have responded to the Bill, conditionally supporting greater flexibility in the system using these alternate mechanisms and a general reduction in the complexity of administration of Section 94.

The Local Government Association has raised concerns, which are shared by Goulburn Mulwaree Council. They are as follows:

> The Minister, development corporations and public authorities will be able to broker planning agreements directly with developers with no reference to the council in whose area the development is taking place.
>
> Developer agreements to change environmental planning instruments including rezoning, altering development standards or changing development controls will be able to avoid council scrutiny. This is because there are no requirements in the Bill for Councils to be formally notified before an agreement is entered into or to be a party to such an agreement.
>
> The legislation will require councils to include in their annual reports details of any planning agreements they have entered into during the year to which the report relates. The Associations consider that these reporting requirements should equally apply to other planning authorities and that they should be required to disclose such details in publicly available reports.
>
> The Regulation which will accompany this legislation proposes to set a maximum flat rate levy of 1%, along the lines of the City of Sydney model and potentially limit the types of matters to which a levy can be applied. This is unacceptable to the Associations as it will lead to a substantial decrease in the amount of contributions being collected by local government for important community facilities and services.

In relation to budget implications, Goulburn Mulwaree Council advised that the funds derived from section 94 are an important part of council's revenue base. It will be of concern if the amendments lead to a substantial decrease in the amount of contributions being collected. To that effect the council's report states:

> The Contributions Plans are the policy and statutory framework on which Council justifies the imposition of conditions for contributions toward the provision of community infrastructure.
>
> Changes to the preparation thereof will have to be reflected in the preparation of the Goulburn Mulwaree Council Strategy Plan 2020.

I record my thanks to Goulburn Mulwaree Council for being extremely organised with its comments on this bill, which were received extremely early. When I received their comments in mid January I wrote on 24 January to the remaining councils in my electorate and those that are partially in my electorate. I asked them if they had any concerns about the bill, or any matter they wanted me to put in this debate. I received a response from Wingecarribee Council, which is partially in my electorate. The honourable member for Southern Highlands has already detailed some of that council's concerns with this bill. In its letter to me it states that it has been following the progress and development of the proposed amendments to the Environmental Planning and Assessment Act 1979 with interest. It said:

> We have also commissioned legal advice regarding how these amendments are likely to impact on Council, its income stream and financial commitments and as a result, the amendments as proposed, are generally welcomed by Council. The proposed alternatives to the current inflexible s.94 legislation are seen to be progressive and do address many of the needs of Council.
>
> Wingecarribee's preliminary position on "Planning Agreements" is that they provide Council with an opportunity to capture an income stream that will enable us to catch-up on backlog works on behalf of the existing community in addition to paying for infrastructure as a result of new development. It may also provide an opportunity for Council to refocus our financial position to catch up on the impacts of many years of rate pegging.

The council had a number of concerns. On 4 February its concerns were in relation to the fixed percentage levies. The council questioned in what circumstances the Minister would reduce or amend the fixed percentage levy. Its first question was: In what circumstances could it be reduced from, say, 2 per cent to 1 per cent? The second question was: How much notice and input would councils have in the above action of the Minister? We recognise that the Environmental Planning and Assessment Act makes section 94 levies payable by applicants for infrastructure needed for development, and that consent hinges on the finalisation of those section 94 payments. Developer agreements are usually entered into for major projects and they can provide good community outcomes and add selling points for a development.

I have more experience on the development side than in local government. I am the first to confess that. I spent several years in the development industry. By and large, developers are very progressive organisations with the intention of doing great things for our fair State. As we know, some councils have already entered into voluntary developer agreements. The shadow Treasurer, the honourable member for Southern Highlands, mentioned the North Sydney local environment plan floor space bonuses paid in return for a levy to fund the station upgrade.

We also heard about contributions in relation to the relatively new development at Green Square. The honourable member for Penrith also mentioned developer agreements that are expected to be part of future developments such as Penrith Lakes and the ADI site. They can go above and beyond the scope and quality required by section 94 payments, for example, non-capital added costs such as recurrent expenditure on affordable housing and capital works such as recreation facilities and transport. Developers are generally in favour of the principle and the facility of the flexible voluntary option. The bill is progressive but I trust that the Minister will be able to respond to the concerns I have raised on behalf of Wingecarribee and Goulburn Mulwaree councils this evening. The Opposition does not oppose the bill.

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [10.42 p.m.], in reply: I thank honourable members who participated in the debate. I also place on record my thanks to the officials of the Department of Infrastructure, Planning and Natural Resources, my staff, and, indeed, the stakeholder groups that have assisted in the development of the bill. I flag at the outset of my reply that there are some Government amendments, which were provided to the office of the Leader of the Opposition, who is the shadow Minister responsible for this area. They are of a noncontroversial nature, more for drafting consideration and to clarify some issues raised in the consultation process.

The bill was introduced in December of last year so it could lie on the table to allow further opportunity for consultation on its terms and on the draft regulations. In a contemporary urban management environment a range of options are required to effectively fund the provision of public amenities and services, as well as to deal with the changing pattern and rate of development. This is what this bill provides for. In addition to the traditional way of imposing development contributions under section 94 of the Act, consent authorities will now have the benefit of a more certain legal framework around the use of voluntary planning agreements. The bill will also provide an additional option of being able to require developers to pay a percentage of the proposed cost of carrying out the development. The regulations will set that levy at 1 per cent. I am pleased to report that the Property Council has written in support of both of these proposals, saying that it:

> … supports the voluntary nature of planning agreements between developers and consent authorities. Planning agreements already provide a flexible and useful arrangement between developers and consent authorities and it is sensible to clarify this with a legislative basis.

The council went on to state further:

> The Property Council supports the introduction of a fixed development levy set at 1 per cent of development costs as an alternative means to raise development contributions. Flat levies provide certainty for applicants in calculating development contributions, and provide a practical alternative to section 94 in low growth areas where it is less simple to demonstrate a nexus between development and increased demand.

It will be up to councils and other consent authorities to determine which approach—traditional development contributions, voluntary planning agreements, or the fixed percentage levy—best suits their particular circumstances and needs. Importantly, the bill also clarifies a current practice by some councils that allows them to sensibly manage their resources to get the maximum benefit from the collection of section 94 funds. The changes to be made by the bill will clearly authorise borrowing between section 94 funds. In councils around the State, more than $800 million is now locked up in section 94 contribution plan accounts. That is more than $800 million that is unable to be spent on important local infrastructure. The amendments clarify the law and will free up this trapped money for the provision of infrastructure, thus promoting the efficient use of those

funds. The Urban Development Institute of Australia has outlined the problem well in its correspondence. It said:

> ... the current section 94 regime significantly limits councils' ability to expend the contributions in a timely manner.... As of 30 June 1998, councils in the Sydney Statistical Division held $410.9 million in section 94 contributions.
>
> By 31 June 2002, the amount had risen... to $720.5 million. These monies are held in a myriad of trust accounts and presently cannot be expended for the purposes for which they were collected. UDIA New South Wales acknowledges that the amendment seeks to correct these administrative barriers and enable councils to finally provide the necessary community facilities. Essentially, the legislation seeks to use existing infrastructure funding more efficiently and the Government is commended for this initiative.

Without these changes, fewer facilities could be built, delays in their provision would multiply, and councils would retain even more unspent section 94 funds. This is clearly unsatisfactory and I am pleased that this amendment will overcome these difficulties. Over the past weeks the Government has been working with industry, local government, and other major stakeholders to finalise a set of regulations that are robust and amply supplement the changes to be made by the amending bill. The consultations have been positive and have assisted in refining aspects of the bill and the draft regulations. The further consultations have also helped to identify important matters on which further guidance and advice need to be given through an update of the existing section 94 development contributions manual.

The consultations have involved representatives from industry and local government, including the Property Council of Australia, the Urban Task Force, the Urban Development Institute of Australia, the Planning Institute of Australia, the Local Government Association, and the Shires Association and individual councils. Concerns have been expressed by some industry stakeholders about the application of clause 94A in this bill concerning the fixed development consent levy in cases where a similar power which exists for the City of Sydney Council might also apply. I want to make it clear that in such circumstances it is not intended that both levies could apply to the one development. It will be up to the City of Sydney Council to determine which levy it will seek, but it is not intended that it will apply both.

Whilst I do not expect that the City of Sydney Council would consider taking this course, if it did I would be able to exercise my powers to issue a ministerial direction under section 94E to ensure that this double dipping did not proceed. The Government is committed to continuing to work with stakeholders in finalising the complete package of changes to the regulations and the manual. Over the coming months we will be inviting comment from practitioners and users alike on the preparation of up-to-date advice on implementing the changes.

I foreshadow that, after listening to the views and concerns of industry and other stakeholders, I will move seven amendments in Committee. One group of amendments will ensure that contributions received under voluntary planning agreements will receive the same GST tax treatment as contributions now paid under the existing provisions of section 94. A second amendment will clarify the intention of the bill that planning agreements can be made when a planning instrument is to be made, amended or revoked. A third amendment will make it clear that consent authorities other than councils are not obliged to adhere to contributions plans when determining obligations under section 94A. Consent authorities are not bound to adhere to contributions plans when imposing conditions under section 94, so it is important and practical that the same flexibility be extended to conditions imposed under section 94A.

I place on record my thanks to all the members of the Urban Task Force, to stakeholder groups, to industry and to local government who have all made a significant contribution to the bill. Consultations, discussions and input on the bill have been detailed and productive. This is reflected in the strong support I have received for the bill from a number of different groups. The Local Government Association of New South Wales said:

> We are writing to express our support for the State Government's new Development Contributions legislation which is currently before the Parliament of NSW.
>
> As you are aware Local Government strongly supports the retention of section 94 as an important mechanism for funding urban infrastructure and community services. We are therefore pleased to see the proposed legislation introduce greater flexibility in the system using alternate mechanisms such as voluntary planning agreements and flat rate levies, and measures aimed at improving its operation and accountability.

The Urban Development Institute of Australia in its 1997 report first drew attention to the need to look at section 94. The institute, which has been closely involved in the development of the bill, said:

> The Urban Development Institute of Australia supports the introduction of the Environmental Planning and Assessment (Development Contributions) Bill 2004 to Parliament. UDIA NSW believes that the amendments will dramatically improve the timely delivery of quality facilities and infrastructure to communities.
>
> ... UDIA NSW is supportive of the proposed planning agreements and the contribution levy as they provide fair and reasonable alternatives to contribution plans. Planning agreements in particular offer an opportunity for the efficient delivery of infrastructure during the construction of developments, which will ensure that many facilities are provided prior to occupancy.
>
> In conclusion, UDIA NSW appreciated your efforts in creating a coherent solution to contributions that is responsive to industry and community needs.

The New South Wales Urban Task Force, which also made a valuable contribution to the development of the bill, stated:

> These reforms... will provide much needed flexibility for the property development industry by introducing choice in development contributions. These reforms will introduce a new system for development contributions in NSW that works for local government, state agencies and the development industry—and provides improved transparency and accountability in delivering benefits to the community.

Similarly, Ken Morrison, New South Wales Executive Director of the Property Council of Australia, has also provided a great deal of valuable advice in relation to this bill. He said:

> I am writing to offer the Property Council of Australia's continued support for the Environmental Planning and Assessment (Development Contributions) Bill 2004.
>
> We would like to acknowledge the constructive consultation between the Property Council and the Government and Department and drafting of the Bill and regulations. We congratulate the Government on bringing forward these important reforms to the development contributions system in NSW.

Finally, Ian Reynolds, General Manager of Blacktown City Council—a council worth noting because of the scale of that organisation and the large amount of urban development in the local government area—stated:

> Council considers that the amendments to the Act will help enable Council to provide the community with a range of necessary facilities within greenfields and built up areas.

I am pleased to have received this level of broad-based support. I again thank everyone who has been involved in the development of the legislation. In conclusion, I make the observation that for many years this Parliament has been dealing with amendments to section 94. Every time they come into this Chamber I am staggered that the Tories in this place just do not get it. They are always seen as an impost on the developer. The debates in *Hansard* always record the conservatives as seeing it as some punitive impost as opposed to the benefits that it brings to communities.

Mr Deputy-Speaker, who is in the chair, and other Government members understand the value and equity of section 94. It provides social dividends rather than just repatriating dividends to the development community. The extraction of developer levies has always been a fundamental part of sound planning policy. Section 94 makes a hypothecated and direct contribution to the provision of services that, in the end, benefits developers. They usually mark the facilities and enhancements that section 94 provides. At the same time it provides dividends to communities. It is a worthwhile proposition. This timely set of further amendments to section 94 will see these provisions enable greater flexibility in a contemporary environment and give councils and the development community a greater choice. That is why this bill has received unanimous support. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [10.55 p.m.], by leave: I move the Government amendments:

No 1 Page 3, schedule 1 [1], line 7. Insert ", or any draft planning agreement that a developer has offered to enter into under section 93F" after "93F".

No 2 Page 5, schedule 1 [3], line 25. Omit "proposed".

No 3 Page 6, schedule 1 [3] (proposed section 93F). Insert after line 38:

(11) A reference in this section to a change to an environmental planning instrument includes a reference to the making or revocation of an environmental planning instrument.

No 4 Page 8, schedule 1 [3] (proposed section 93I), line 23. Omit all words on that line. Insert instead:

93I Circumstances in which planning agreements can or cannot be required to be made

No 5 Page 8 schedule 1 [3] (proposed section 93I (2)), line 35. Insert "or that the developer has not offered to enter into such an agreement" after "proposed development".

No 6 Page 8 schedule 1 [3] (proposed section 93I), lines 36 and 37. Omit all words on those lines. Insert instead:

(3) However, a consent authority can require a planning agreement to be entered into as a condition of a development consent, but only if it requires a planning agreement that is in the terms of an offer made by the developer in connection with:

(a) the development application, or

(b) a change to an environmental planning instrument sought by the developer for the purposes of making the development application.

No 7 Page 12, schedule 1 [3] (proposed section 94B), line 8. Omit "section 94 even though it is not of a kind allowed by". Insert instead "section 94 or 94A even though it is not authorised (or of a kind allowed) by".

Amendments Nos 1, 4, 5 and 6 will attempt to ensure that development contributions made under planning agreements are treated the same for GST purposes as development contributions under section 94. Divisions 81 and 82 of the Commonwealth's A New Tax System (Commonwealth-State Financial Arrangements) Act 1999 exempts the supply of development contributions, whether cash or in kind, from a developer to a government agency from GST if the supply complies with the requirements imposed by or under an Australian law. These divisions also exempt the supply of the right to develop land, whether through a rezoning or development consent from the government agency to the developer, from GST if the supply of the development contribution complies with the requirements imposed by or under an Australian law.

My department has received legal advice that voluntary planning agreements may not involve supplies that comply with requirements imposed by or under an Australian law. To ensure that contributions made under planning agreements receive the same GST treatment as contributions made under section 94 currently do under the GST Act, it is important that a contribution under a planning agreement be characterised as being requirements imposed by or under an Australian law. In particular, my proposed amendment No. 6 will amend new section 93L to provide that a consent authority can require a planning agreement to be entered into as a condition of development consent, but only if it requires either a planning agreement—that is, within the terms of an offer made by the developer in connection with a development application—or a change to an environmental planning instrument sought by the developer for the purposes of making the development application.

This proposed amendment will ensure that the decision whether to enter into a proposed planning agreement and the negotiated terms of the proposed planning agreement remain voluntary. Amendments Nos 1, 4 and 5 are necessary consequential amendments to ensure that development contributions obtained under planning agreements are appropriately classified for GST purposes. Amendment No. 2 is a minor drafting amendment to remove the adjective "proposed" from new section 93F (3) (b) (ii). Amendment No. 3 allows for the preparation of a planning agreement in circumstances where a person seeks a change to an environmental planning instrument. New section 93F will be expanded to clarify that planning agreements can be sought where a person seeks an environmental planning instrument to be made, amended or revoked. This amendment will ensure that the ability to seek a planning agreement is not just limited to changes to an environmental planning instrument.

The Urban Task Force proposed this amendment, which resulted from extensive stakeholder consultations conducted by my department. Amendment No. 7 provides for current provisions in the bill that are unclear as to the responsibilities of the Minister or the director-general to consider contributions plans of local councils when imposing section 94 contributions. This amendment will make it clear that the Minister and director-general, as consent authorities, are only obliged to consider but are not obliged to conform to local council contributions plans when determining obligations under new section 94A.

Ms PETA SEATON (Southern Highlands) [10.59 p.m.]: The Opposition has given careful consideration to all the different stages of this bill—the planning agreement bill and the draft exposure bill. I

have had many detailed meetings and consultations with stakeholder groups that have been trying to achieve the best results—the Property Council of Australia [PCA], the Housing Industry Association [HIA], the Urban Development Institute of Australia [UDIA], the Urban Task Force and others. I have been aware since late last year—when this bill was first introduced into the Parliament—of continuing concerns about the inadequacies in the Government's bill as introduced. I have anticipated along the way that the Government may introduce amendments to its bill to correct and address some of those inadequacies. The Opposition was made aware of these amendments at 7.00 p.m. this evening. I have not had a chance to go back to stakeholder groups, including the PCA, the HIA, the UDIA and the Urban Task Force. I will certainly do that. I hear what the Minister says about the agreement with stakeholder groups about these amendments. As he has just introduced them, I take that on trust. It is not my intention to oppose these amendments, but I reserve the Coalition's position in the upper House, if I were to be persuaded that there were any concerns about these amendments.

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [11.00 p.m.]: I appreciate the honourable member for Southern Highlands' consideration in those matters and acknowledge her right to further consider these matters, should that be necessary, in the upper House. I confirm that the amendments were provided to the office of the shadow minister—that is, the office of the Leader of the Opposition—at a time substantially earlier than that described by the honourable member for Southern Highlands.

Amendments agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by Mr Craig Knowles agreed to:

That the House at its rising this day do adjourn until Thursday 5 May 2005 at 10.00 a.m.

The House adjourned at 11.02 p.m. until Thursday 5 May 2005 at 10.00 a.m.