LEGISLATIVE ASSEMBLY

Wednesday 2 December 2009

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

The Speaker read the Prayer and acknowledgement of country.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

ROAD TRANSPORT LEGISLATION AMENDMENT (MISCELLANEOUS PROVISIONS) BILL 2009

Agreement in Principle

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [10.06 a.m.], on behalf of Ms Kristina Keneally: I move:

> That this bill be now agreed to in principle.

This bill was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 56 to 59 of the *Hansard* galley for that day. I commend the bill to the House.

Mr ANDREW STONER (Oxley—Leader of The Nationals) [10.06 a.m.]: I lead for the Liberals-Nationals on the Road Transport Legislation Amendment (Miscellaneous Provisions) Bill 2009. This year there have already been 421 deaths on New South Wales roads, which is an increase of 93 compared to the same time last year. Whilst the road toll has spiralled out of control this year, the Rees Government has offered countless excuses, ranging from the global financial crisis causing motorists to rush to and from work, to even a denial that the road toll was actually increasing.

Whilst the Government can speculate on what underlying causes are behind this year's tragic increase in the road toll, it is clear that along with the condition of roads and vehicles, driver behaviour plays a role in many of these tragic accidents. Indeed, whilst it may not be the single factor behind this year's staggering road toll figures, it holds true that drivers who speed and choose to run red lights put their own lives and the lives of others at risk. Under our road laws in this State strong penalties are in place to discourage drivers from such unsafe behaviour. The system is based on deterrence, where drivers are discouraged from breaking the rules by way of financial penalties, demerit points and the threat of losing their licences.

The effectiveness of such a system can be evaluated by how well it identifies and penalises those who break the rules. Although police do not catch every speeding vehicle, the community expects that anyone caught speeding or running a red light will receive the appropriate punishment. However, over the past few years we have heard reports of more and more people avoiding traffic fines and demerit point penalties by lying about who was responsible for the car at the time of the offence or even by failing to nominate who was driving the vehicle at the time that the relevant image was captured.

Recently around 70 people were charged with being involved in a scam where motorists allegedly made false declarations to avoid paying fines following a 2006 audit by the State Debt Recovery Office of statutory declarations. The audit found that more than 200 motorists had made false declarations by using the names of two men to evade speeding and parking fines, one of whom was a deceased South Australian man. There was also the high-profile case of former Federal Court judge Marcus Einfeld, who was found to have lied in relation to a $75 speeding fine. Of course, he is now in jail. According to an article in the *Daily Telegraph* earlier this year, hundreds of drivers have refused to heed the lesson of the speeding judge and they continue to make sworn statements falsely blaming the dead, strangers or relatives for traffic offences. The article states:

> In desperate bids to escape fines and demerit points, one woman blamed her relatives for 158 offences, a man blamed his dead father and another even blamed former judge Einfeld.

The article reports that figures obtained from the State Debt Recovery Office [SDRO] reveal that 626 drivers had lodged a combined 2,871 driver nominations blaming others for their fines. Of those 626 drivers, 131 admitted they had falsely nominated someone else for their offence when advised they were being investigated by the SDRO, which had set up a dedicated unit to investigate the fraud. Clearly the message is not getting through. Drivers caught speeding or running a red light must not be allowed to dodge fines by making false declarations or failing to declare the person responsible for the offence. This bill seeks to close the loophole by increasing the penalties for making false or misleading declarations.

Currently the penalty for making a false or misleading nomination for a camera-recorded or parking offence is 5 penalty units or $550 for an individual or 10 penalty units or $1,100 for a corporation. The bill will increase the penalty for failing to nominate to 50 penalty units or a fine of $2,250 for an individual and 100 penalty units or $5,500 for a corporation. These penalties will act as a deterrent against any driver who is considering abusing the system. As well as increasing fines, the bill will give police more time to prosecute motorists for making false declarations. The time to prosecute will be increased from 6 months to 12 months. Further, the bill will make it easier for businesses and corporations to nominate speeding drivers.

This legislation is an important reform and will make it easier for the Government to identify and prosecute offenders. However, with these changes we need to see a public information campaign by the Roads and Traffic Authority to educate drivers on the importance of taking responsibility for their actions and the higher penalties for making false declarations. Former Federal Court judge Marcus Einfeld was prosecuted under the Oaths Act for making a false declaration on a statutory declaration form. This legislation should ensure that the Government does not have to go to those lengths to have a stronger deterrent for motorists who seek to do the same thing.

This legislation has been brought about by the Government's increasing reliance on speed and red-light cameras as a means of enforcing road safety. The Liberals and The Nationals are of the view that highway patrol remains the best form of deterrent for drivers. They are highly visible and a random deterrent. Sadly, under Labor during the past 15 years there has been a decrease in the number of kilometres travelled by police in highway patrol vehicles. The reliance of the Government on speed cameras as a relatively inexpensive source of revenue has enabled drivers to dodge penalties. Drivers cannot do that when police pull them up on the road and identify them as the driver.

It appears that the Government has gone down the path of reliance on revenue from speed and red-light cameras technology and even another opportunity to get more revenue by increasing the penalties. The Liberals and The Nationals are committed to improving road safety in New South Wales and believe that along with upgrading our State's dangerous roads, in particular identified black-spots, better educating motorists and deterring them from engaging in dangerous driving can help save lives on our roads. We therefore do not oppose this bill.

Ms SONIA HORNERY (Wallsend) [10.14 a.m.]: The Road Transport Legislation Amendment (Miscellaneous Provisions) Bill 2009 seeks to make amendments which will streamline fine enforcement procedures and ensure certain provisions within road transport law have their desired effect. The administration of the fine enforcement system in New South Wales is carried out by the State Debt Recovery Office [SDRO], which acts on behalf of other law enforcement agencies that issue penalty notice fines. Members may recall recent events that highlighted the consequences of submitting false or misleading information to the SDRO when completing a statutory declaration in respect of a camera-detected speeding offence. The case I refer to received wide coverage in the media. It highlighted how the potential for the nomination process can be abused by those seeking to avoid punishment either for themselves or another individual at risk of losing their licence.

The potential for abuse can take different forms. For example, companies who wish to protect employees from the application of demerit points may deliberately fail to nominate the driver responsible and simply pay the fine. If no driver is identified, no demerit points can be allocated to that person. Another ploy may be to nominate a person who will, in turn, nominate another person as the offender. Each time a nomination is made, the SDRO must issue a fresh penalty notice to the person nominated. This practice of circular nomination is aimed at exhausting the statute limitation period in which action can be taken. The bill before the House seeks to amend the Road Transport (General) Act 2005 to address these issues by increasing the penalty for failing to nominate or making a false or misleading nomination for a camera-recorded offence, or a parking offence, from 5 penalty units for an individual to 50 penalty units and 100 penalty units for a corporation.

The bill also proposes to increase the time period during which a person may be prosecuted for making a false nomination from 6 to 12 months. This will have the dual effect of preventing deliberate time-wasting

tactics such as circular nominations while also providing the SDRO or New South Wales Police with sufficient time to gather evidence in determining whether an offence has been committed. On the subject of nominations, the bill also seeks to improve the nomination process for corporations by allowing a nomination to be made by means other than a statutory declaration including nominations to be sent electronically and in bulk. These measures will greatly assist both corporations with large vehicle fleets, and the SDRO that processes the nominations.

In 2005, nationally agreed compliance and enforcement provisions for heavy vehicles were introduced with the re-enactment of the Road Transport (General) Act. Definitions such as "registered operator" were added to existing definitions relating to the responsible person for a vehicle to extend liability to parties in the chain of responsibility within the transport industry. The bill proposes to clarify the operation of these definitions with respect to New South Wales and interstate registered vehicles, and to confirm that these amended definitions had effect from the time of the assent of the Act in 2005. We do not want drivers on our roads who continue to break the law and flout the road rules. We know that disqualified drivers are more likely to be involved in crashes. We also need to ensure that young drivers are protected on the road through sensible restrictions. That is why it is important that the law is strengthened to ensure that the intention of the law that is designed to safeguard road users and the community is as effective as possible.

The bill will strengthen certain provisions around disqualification periods, and the second and subsequent penalty regime for certain offences that result in disqualifications, and blood alcohol concentration limits for novice drivers and for heavy vehicle operators. The bill seeks to amend the Road Transport (General) Act 2005 which deals with the Habitual Traffic Offence Scheme, introduced in 1998. Under the scheme, a person who is convicted of three major offences within a five-year period is declared a habitual traffic offender and is disqualified by statute for an additional five-year period. A court may later quash the declaration if it is of the opinion that the additional disqualification period is a disproportionate and unjust consequence. There is some doubt however over the effect a quashing has on associated disqualification periods.

One view, which some courts have taken, is that the quashing means that the associated disqualification is deemed to have never existed, which is appropriate if the additional disqualification period has not yet commenced. However, it cannot be supported where the additional disqualification period has already started. This is because a person detected driving prior to a court quashing the additional period may avoid punishment of a driving disqualification if the entire period is later removed from their traffic record. Therefore, the bill will confirm that a court order to quash an habitual traffic offender declaration only has effect from the date of the court's decision. Any person caught driving before the quashing took effect will be prosecuted accordingly.

Since 2004 learner and provisional licence holders have had a zero blood alcohol limit when driving. This was introduced to make it absolutely clear to novice drivers that they are not to drink alcohol before getting behind the wheel. This has been a positive road safety campaign that is generally supported by the community. Prior to the change, learner and provisional drivers were included in the special category drivers who must observe a blood alcohol limit of 0.02. Special category drivers include coach and heavy vehicle drivers, public passenger vehicle drivers and drivers of vehicles transporting dangerous goods, and drivers whose licences are suspended, cancelled or refused, or who are disqualified from driving.

Unfortunately an unintended consequence exists that where a sanction is imposed against a learner or provisional driver, such as a period of licence suspension, the higher blood alcohol limit of 0.02 applies. This is because the zero blood alcohol limit relies on the person continuing to "hold" a learner or provisional licence. To rectify this, the bill will amend the relevant sections so that the zero blood alcohol limit continues to apply to a learner or provisional driver despite any enforcement action taken. The zero blood alcohol limit provisions will be extended to include those who have never obtained a driver licence of any type in New South Wales or elsewhere.

The bill will also rectify an anomaly in respect of a person who is a special category supervisor, that is, a person who is supervising another person learning to drive a heavy vehicle. The current offence relies on the supervising driver occupying the seat next to a holder of a learner licence who is driving the vehicle. The problem is that a person learning to drive a heavy vehicle is not required to be issued with a learner licence. To ensure that the intended legal blood alcohol limit of 0.02 applies to a special category supervising driver, the bill will amend the Act to remove the reference to the driver being the "holder of a learner licence" and instead insert the words "a person learning to drive the vehicle".

The remaining sections of the bill will essentially ensure that the original intent of the second and subsequent offence provisions with regard to sections 25 and 25A apply. The amendments will ensure that the

second offence disqualification period of two years applies if a person is convicted of driving during a period of disqualification, cancellation, refusal or suspension, or any other "major offence", and that the section had this effect from the time the provision was enacted. The second or subsequent offences provisions will not include the offence under section 25A (3A) that relates to driving while disqualified for failure to pay a fine. This clearly and fairly distinguishes between those who have been disqualified for driving unsafely and those who have lost their licence because of an inability to pay a fine.

We need to do all we can to ensure that our roads are safe. The Government is doing its bit in this regard through funding $234 million worth of road safety programs and initiatives. They include flashing lights and dragons teeth in school zones; a comprehensive graduated licensing scheme for learners and provisional drivers that involves elements such as 120 hours of driving experience, and passenger and high performance vehicle restrictions; improvements to major highways, including the $30 million improvement works on the Newell Highway and similar programs for the Princes Highway and the Pacific Highway; programs like drug and alcohol testing and the alcohol interlock scheme; advertising campaigns such as the Pinky advertisement that has proven so successful; and many other programs. We constantly reinforce the message of safe driving to all road users. These amendments may not get the same level of coverage as those I referred to earlier, but they are nonetheless just as important and demonstrate our strong commitment to road safety. I commend the bill to the House.

Mr GEOFF PROVEST (Tweed) [10.24 a.m.]: I am 100 per cent for the Tweed. The Road Transport Legislation Amendment (Miscellaneous Provisions) Bill 2009 amends the Road Transport (Driver Licensing) Act 1998 to clarify who is an unlicensed driver for the purposes of section 25 of that Act, and to confirm the disqualification period applicable to drivers convicted of an offence of driving while disqualified or when the driver's licence is suspended or cancelled if the offence is a second or subsequent offence. A number of members have spoken in this debate. Much of my contribution to the debate will refer to cross-border issues. As members know, the Tweed borders Queensland and we are on major highways there. On average, around 50,000 Queensland vehicles travel over the border into New South Wales each day.

The bill refers to zero tolerance for novice drivers, and in that regard refers to a 2005 Act. That is pretty dear to my heart. In 2007 as a relatively new member in this place a flaw in the legislation was brought to my attention. Under the legislation at that time, the Roads and Traffic Authority was the issuing authority with regard to drivers licences. Therefore we had an anomaly in the Tweed area under which novice drivers registered in Queensland, or Queensland licence holders, technically had zero tolerance in their State but could drive across the border and drink alcohol up to a blood alcohol limit of 0.05. Despite the fact that the local police association had on a number of occasions written to the Attorney General to raise the anomaly, I took the initiative of introducing a private member's bill to address it. Subsequently the Government introduced its own amending bill to address the anomaly.

The only discrepancy between the two bills was the fact that the Government's bill included reference to overseas novice drivers. Our local highway patrol officers advised that they had not come across a large number of overseas novice drivers. However, the Government's bill addressed that anomaly. What concerns me a little—and I ask the Minister or the Parliamentary Secretary at the table to address this in reply—is whether the current bill's amendments encapsulate the 50,000-odd Queenslanders who drive across the border on a daily basis. In around 2007 a case in Albury-Woodonga was thrown out of court because New South Wales police did not have the jurisdictional powers to prosecute a novice driver with a maximum blood alcohol reading. As we have heard, a judge and various others have lied about speeding offences to avoid paying fines.

The Tweed is in a unique situation. Currently the penalty for making a false or misleading nomination for a camera-recorded or parking offence is five points. The bill increases the penalty for that offence to 50 points or $2,250 for an individual, and to 100 points or $5,500 for a corporation. However, the enforcement of such fines concerns me. Currently in the Tweed there are around 2,500 outstanding warrants for New South Wales people believed to be residing in Queensland, but we have only one officer in the police station dealing with those warrants. Surprise, surprise, I was told that that officer handles basically all the outstanding warrants in Queensland for the whole of New South Wales, which is an onerous task indeed.

The lack of cooperation between the States regarding these issues concerns me. A person has been known to lose his or her drivers licence in New South Wales and then gain a drivers licence in Queensland, and vice versa. This creates a huge problem, particularly with regard to enforcement. I note that many of the penalties referred to in the bill relate to speed cameras. We have a significant speed camera on Sexton Hill. For the benefit of members, Sexton Hill is one of the most notorious black spots on the Pacific Highway in terms of

death and carnage. A series of campaigns have been conducted for that section of the highway to be upgraded. Hopefully some upgrading work will start this December. The upgrade has been a long time coming. It is probably not the best outcome for the local community, but at least it will reduce the number of accidents on that section of the highway.

This year there has been a reduction in the number of speeding fines. In 2007 just under 7,000 speeding offences were recorded by the camera at Sexton Hill. The majority of offences were for driving at less than 15 kilometres an hour over the speed limit, but, as an 80-kilometre speed limit applies, I am concerned that 34 offences were for driving at between 30 and 34 kilometres an hour over the limit and three offences were for driving at more than 45 kilometres an hour over the limit. This year to date 594 speeding fines have been issued for driving at less than 15 kilometres an hour over the limit, 107 fines have been issued for driving at between 15 to 30 kilometres an hour over the limit, four fines for driving at between 30 and 45 kilometres an hour over the limit, and zero fines for driving at more than 45 kilometres an hour over the limit. That stretch of the highway, through the fabulous Tweed electorate, carries about 22,000 heavy vehicles on a daily basis. Many B-doubles use the Pacific Highway as a quick route from Brisbane to Sydney. The potential for carnage is great, as is the potential for cross-border issues.

In my short time in this place I have mentioned that cross-border issues continue to be one of the major concerns for the Tweed—for the Tweed community, the court system and law enforcement officers. I have read the bill fairly intensively and note its reference to Australian standards. In her reply I ask the Parliamentary Secretary to explain how the provisions in the bill interact with the Queensland system. Currently the New South Wales Police Force computer system, which runs the police assistance line—PAL—is incompatible with the Queensland computer system. Cross-border licence checks, infringement notices and fine collections would be fairly arduous, mainly due to the lack of manpower at the Tweed Heads Police Station, although the guys and girls there do a fabulous job.

On a recent Friday night I sat in the back of a highway patrol vehicle for a 12-hour shift and I saw many instances of the fine work of the officers. However I am concerned at the high level of infringement notices. I estimate that half the infringement notices issued that night were issued to Queensland licence holders. Although I do not oppose the provision in the bill for increasing penalties and making drivers more responsible for their actions, the enforcement and collection of fines and the liaison between New South Wales and Queensland is a major concern. I see many offenders slip under the net. A number of drivers who had their New South Wales licence cancelled or suspended also held a Queensland licence. The information on the two databases is not crosschecked, which gives rise to that anomaly and enables people to do the wrong thing.

Recently a large number of accidents have occurred. A quick search of last month's statistics shows that just on 60 per cent of people involved in accidents were disqualified from driving in New South Wales, and half of them held a Queensland licence. They can drive legally in Queensland, but not in New South Wales. I ask the Parliamentary Secretary to clarify that anomaly. I do not know what the answer is, but I am sure that the people of the Tweed would like it resolved in the Road Transport Legislation Amendment (Miscellaneous Provisions) Bill 2009. Previously novice drivers were authorised by the Roads and Traffic Authority, which is the consenting authority in New South Wales.

The Tweed is an important part of New South Wales. We stand strongly behind New South Wales, but at times under this Labor Government we feel very much neglected and as though we are second-rate citizens. Frequently legislation and amendments to legislation that are passed in the New South Wales Parliament do not refer to the cross-border scenario. Nowhere is the cross-border issue more apparent than in this bill. In many regards the front door of the Tweed is Queensland and the back door is New South Wales. One in three people in the Tweed work in Queensland and 14 per cent of our schoolchildren cross the border to attend Queensland schools.

A large number of traffic offences occur in the Tweed, particularly offences involving hooning, driving whilst disqualified and driving unregistered vehicles. Queensland does not require an annual vehicle inspection and a subsequent pink slip to register a vehicle, which leads me to question the roadworthiness of many vehicles registered in Queensland. I have seen vehicles registered in Queensland with rusted fenders that I could put my hand through. Obviously that is an issue for Queensland, but we must improve liaison between the Queensland Department of Transport and the New South Wales Roads and Traffic Authority, which has not been too flash in recent times. I remind members of an issue that I have spoken about many times. Eighteen months ago the Queensland Premier, Anna Bligh, opened a seven-kilometre stretch of road called the Tugun Bypass, which has

reduced the trip from Tweed to Brisbane by 20 minutes. Five kilometres of that road was built in New South Wales, but at the time the New South Wales Labor Government decided it would not contribute to the road improvements.

To apply acid to the wound, the then Treasurer, Michael Costa—bless his soul—sent Anna Bligh a land tax bill for $250,000; that was after Queensland taxpayers paid about $300 million to build the bypass. That is an indication of the arrogance of the New South Wales Government. In fact, I was the only New South Wales politician invited to stand next to Anna Bligh and Anthony Albanese at the opening of the Tugun Bypass. I ask the Parliamentary Secretary to address the cross-border issues in her reply, because I cannot see a great deal of cross-border cooperation. What I do see is the potential for carnage on our roads and Queensland drivers disqualified from holding a New South Wales drivers licence driving on New South Wales roads.

The bill should reflect modern issues. It should be more up-to-date and not out of date before it is implemented, which occurred with the 2005 Act regarding novice drivers. In that regard the Police Association made many requests over two years, but it was not until the Opposition introduced a private member's bill that the Government finally got its act together and dit something about it. At the end of the day, it is the mums and dads, the hardworking people of the Tweed, who use the roads on a regular basis. They have a right to use their roads on a fair and equitable basis—we owe them that much. The Queensland cross-border issue will not go away. If it is not addressed I will introduce a private member's bill. Once again, I am 100 per cent for the Tweed and 100 per cent for the people of the Tweed.

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [10.37 a.m.], in reply: I thank the Leader of The Nationals, the member for Wallsend and the member for Tweed for their contributions to the debate. As has been mentioned today, the purpose of the Road Transport Legislation (Miscellaneous Provisions) Bill 2009 is to amend road transport law to improve the way camera recorded provisions operate by increasing the penalty for making a false or misleading nomination, or failing to nominate the person responsible for the vehicle in breach of a traffic law; to extend the limitation period that a person may be prosecuted for making a false or misleading nomination; to allow nomination by other means than a statutory declaration where the responsible person for the vehicle is a corporation; to confirm that a disqualification ends on the date a court quashes the habitual offender declaration and that any period of disqualification served already is to stand; and to confirm the operation of a number of definitions including "registered operator" from the date of the commencement of the Act.

Further, the purpose of the bill is to ensure the second offence disqualification period of two years applies if a person is convicted of driving during a period of disqualification, cancellation, refusal or suspension, or any other major offence, and that the section had this effect from the time the provision was enacted. The purpose of the bill is also to amend road transport law for the offence of "unlicensed driver-never licensed", to remove the reference to "convicted of the offence" and replace it with the words "commission of the offence" so that an unlicensed driver cannot obtain a licence in the interim and evade conviction; to ensure that a learner or P-plater is required to comply with zero blood alcohol concentration; and to clarify the blood alcohol concentration that applies to a person who is supervising another who is learning to drive a heavy vehicle. The amendments are consistent with the Government's road safety objectives. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

BUSINESS OF THE HOUSE

Suspension of Standing Orders: Routine of Business

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [10.40 a.m.]: I move:

That standing orders be suspended at this sitting to permit:

(1) the introduction and passage through all stages of the James Hardie Former Subsidiaries (Winding up and Administration) Amendment Bill;

(2) private members' statements to conclude by 6.30 p.m.;

(3) the postponement of the matter of public importance until 7.30 p.m.;

(4) consideration of government business following the conclusion of the matter of public importance; and

(5) the House to adjourn on motion.

It is well known that the James Hardie Former Subsidiaries (Winding up and Administration) Amendment Bill is urgent. It is important to ensure that the bill is passed at this sitting to provide a guarantee of support to the victims of the James Hardie tragedy. For that reason the Government is moving to suspend standing orders to deal with this bill and, in view of the amount of legislation on today's program that needs to be debated and concluded, to extend the sitting hours of the House.

Mr DARYL MAGUIRE (Wagga Wagga) [10.41 a.m.]: The Liberals-Nationals Coalition understands the importance of the legislation and does not oppose the motion. Traditionally the Liberals-Nationals Coalition would oppose a bill being introduced and rammed through all stages, but we understand its significance. The adjustment to private members' statements and the House sitting tonight is not unexpected. As I said yesterday, in the last few days of the parliamentary sitting it is to be expected that legislation will have to be dealt with. However, the Government has had many opportunities to bring legislation into this place, but instead we have been sitting around twiddling our thumbs and looking for matters to debate, whether they be the budget or motions that should not have been given any significance—particularly the motions of priority moved by the Government in recent times—and wasting the time of the House. Instead, legislation of importance to the lives and wellbeing of the people of this State should have been dealt with.

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

Motion agreed to.

JAMES HARDIE FORMER SUBSIDIARIES (WINDING UP AND ADMINISTRATION) AMENDMENT BILL 2009

Bill introduced on motion by Mr Michael Daley, on behalf of Ms Carmel Tebbutt.

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Minister for Police, and Minister for Finance) [10.44 a.m.]: I move:

That this bill be now agreed to in principle.

The New South Wales Government is deeply concerned for asbestos victims. The Government's first priority has, and always will be, to seek justice for them. I acknowledge the presence in the gallery of Karen Banton, the wife of Bernie Banton and the Chief Executive Officer of the Bernie Banton Foundation. Her dignity, courage and tireless activity have inspired the nation, and we thank her for her efforts. As a brand new member of this place—I had only been here for about two months—I well remember the day that Bernie Banton sat in the gallery of this Chamber, with tears rolling down his cheeks, as the first of the James Hardie legislation was passed. Bernie received a standing ovation. No doubt that will be one of the most powerful things I will ever experience in this Parliament. It is good to see Karen here today. I know that Bernie is here in spirit.

In April this year the Asbestos Injuries Compensation Fund notified James Hardie and the New South Wales Government that it had determined that it was reasonably foreseeable that within two years the available assets of the fund were likely to be insufficient to fund the payment of all reasonably foreseeable liabilities. The gravity of that announcement cannot be underestimated. We are living in difficult times with unprecedented challenges. The financial crisis that started in the United States of America has deeply affected the bottom line of James Hardie. That financial crisis has now spread across the world causing a global recession, and whilst this has meant that James Hardie's payments to the fund are affected, it is bound by an agreement, underpinned by law, which it cannot resile from. The fact is this that James Hardie must pay its debt to its victims.

The Parliament enshrined in legislation the Final Funding Agreement, which is worth some $1.78 billion in today's terms over the next 40 years. The agreement provides that there is no overall cap on James Hardie's liabilities or any cap on payments to individuals. Nothing about these challenging times means

that compensation cannot or will not be paid. That is because the New South Wales and Federal governments are providing a loan to the fund. On 7 November 2009 Premier Rees and Prime Minister Rudd announced that the New South Wales and Federal governments would provide a loan of up to $320 million to ensure that the victims of James Hardie's asbestos continue to receive full compensation payments. The bill enables that loan to proceed.

People who care abut this issue, and there are many of them, have told us they are proud of both the State and Federal governments for their action in this regard. The Government will stand up for workers and their families. It had the determination in the past to stand up for victims and their families to deliver the justice that they deserved. It had the determination then.It has the determination now. There are two other matters I wish to raise before I turn to the detail of the bill.

Asbestos disease is a national issue in Australia. Tragically, cases of asbestos disease can, and do, arise in all Australian jurisdictions. When the New South Wales Government set up the Jackson Special Commission of Inquiry into Funding of the Medical Research Compensation Foundation in 2004, it did so because the then Federal Government was unwilling to take action. Again in 2005 and 2006 the New South Wales Government joined the unions and victims' groups in negotiating the Final Funding Agreement with James Hardie, because the then Federal Government was unwilling to address the issue. That is not a matter of politics; it is a matter of historical record.

It is with great pleasure that I acknowledge the significant contribution of the current Federal Government in addressing the prospective funding shortfall for the fund. The New South Wales Government had no intention of walking away from asbestos victims after all these years. However, it welcomes the recognition by the Federal Government that this prospective funding shortfall for the fund has to be dealt with and it is not one that New South Wales should have to deal with alone. Asbestos victims throughout Australia will gain greater security and certainty as a result of the loan funds to be provided by the New South Wales and Federal governments.

The other matter I will address is how the loan will affect James Hardie's obligation to make payments under the Final Funding Agreement. In short, the loan has no impact on James Hardie's obligation to pay under the Final Funding Agreement. The funding mechanism requires James Hardie to keep making payments until all claims are paid in full. Although the agreement limits the amount James Hardie has to pay in any year to a maximum 35 per cent of its free cash flow, there is no limit on its overall payments under the agreement. This means that the cash flow cap affects the timing of James Hardie's payment obligations but not James Hardie's obligation to pay in full under the agreement. The agreement to implement the loan will require the loan to be repaid as quickly as possible, as James Hardie's payments to the fund improve.

Since early 2007, James Hardie has made payments to the fund totalling $302 million. It has also announced that it expects to be able to make a payment to the fund from the current year's cash flow. This amount will be payable in the middle of 2010, although it may not be enough to cover claims payments for the 2010-11 financial year. James Hardie's payments under the Final Funding Agreement will, over time, catch up with the needs of the fund. While we are waiting for this to happen, for the next few years the loan from the New South Wales and Commonwealth governments will provide security and certainty for victims and their families. The loan will not in any way reduce James Hardie's obligation to pay.

I now turn to the details of the legislation. The main provision of the bill is item [10] of schedule 1, which inserts a new division in part 4 of the Act. Proposed section 30A will authorise the Asbestos Injuries Compensation Fund, as the SPF trustee, and the liable entities to enter into relevant loan facility agreements. The bill requires that the State be a party to any relevant loan facility agreement. Of course, for the particular loan we are currently negotiating, the State will be the lender of up to $320 million. The provision in the bill is drafted more broadly so that it may be able to be used in the future for other loan arrangements that may become necessary. Requiring the presence of the State will ensure that the relevant loan facility agreements are in the interests of claimants.

Proposed section 30A also authorises the fund to give security for a loan facility, and it authorises the liable entities to guarantee the obligations of the fund and to provide security for their guarantees. For the particular loan we are currently negotiating, it is intended that the State will take security over a number of assets, including the proceeds of the insurance policies held by the liable entities. These proceeds are currently

valued at about $320 million. Proposed section 30A also ensures that the fund and the liable entities are authorised to comply with all of their obligations under an authorised loan facility agreement. This will ensure, among other things, that the fund is able to repay the loan and to pay any costs or charges associated with the loan.

The amendment in item [4] of schedule 1 makes it clear that an authorised loan facility does not change the status of the fund as a charitable trust and that repaying the loan is a valid application of the trust fund. The amendment in item [5] of schedule 1 ensures that the liable entities may comply with their obligations under any relevant loan facility agreement during the winding-up period under the Act, and the amendment in item [7] of schedule 1 allows the fund to issue directions to the liable entities in relation to any loan facility agreement and any authorised loan facility.

The amendment in item [19] of schedule 1 ensures that the protection currently in the Act for the exercise of certain functions during the winding-up period will not prevent any party from enforcing or taking action under a relevant loan facility agreement. Item [20] of schedule 1 proposes to extend the current exemption from State taxes to any relevant loan facility agreement, including any guarantee or security under a relevant loan facility agreement. As I have indicated, the Government is currently negotiating the documents for this particular loan of up to $320 million. The relevant loan facility agreements are not yet finalised.

Item [21] of schedule 1 proposes to insert a new section 64A into the Act under which the Minister will table a copy of the relevant loan facility agreements as soon as is reasonably practicable after the agreement has been signed. This is the same approach the Government followed in relation to the Final Funding Agreement, and it will ensure that there is complete transparency in relation to the loan.

The bill also proposes to make some amendments to the approved payment scheme provisions in the Act. Although the Government hopes that payment by instalments will never be required, the fund has identified some possible improvements to these provisions in the course of all the work that it has done in considering an instalment scheme. Rather than waste this work, the Government is prepared to introduce the amendments requested by the fund. If the very unfortunate circumstances arise where payments need to be made by instalments, these amendments should ensure that the approved payment scheme is as fair as possible and operates in the interests of claimants as a group.

There are four elements to the approved payment scheme amendments proposed in the bill. First, the bill makes it clear that an approved payment scheme can commence before the fund completely runs out of money. Item [13] of schedule 1 clarifies that the scheme period may commence before the time at which there will be insufficient funds if the court is satisfied that this will result in claimants being treated more equally. Second, the bill allows the court to approve an interest rate to apply to deferred payments which compensates for inflation but which need not be a commercial interest rate. If the fund were required to pay interest on instalments at court interest rates, which are currently some 9 per cent, this would have the effect of extending the duration of the approved payment scheme by a number of years. Striking a balance between compensating for the delay in payment and minimising the need for instalment payments will better protect the interests of claimants as a group.

Third, the bill proposes that the fund be able to pay small claims in full, rather than by instalment. Item [3] of schedule 1 introduces a definition of "small claim". In short, it is any claim of $25,000 or less, with the limit of $25,000 to be adjusted for inflation. Very few if any claims are for $25,000 or less, unfortunately, but the liable entities sometimes pay such amounts when they are contributing to a damages award with a number of other defendants. The fund has advised that some 11 per cent of claims currently cost the liable entities less than $25,000 but represent less than 1 per cent of the total claims payments. Finalising these small claims without paying by instalments will simplify the administration of an approved payment scheme for the fund. It will not have any material impact on the fund's ability to meet instalment payments for larger claims.

Finally, the bill proposes to allow the court to approve a scheme that provides for different payment options to be offered to claimants so that they can make a choice. If there are two or more ways in which to divide payments, which are equally affordable to the fund, then it makes sense to allow claimants to make a choice. For some claimants, being paid in full in the fewest possible number of years might be most important, while other claimants might choose to be paid over more years provided that the amount of their first payment is maximised. If a scheme allows claimants a choice, the bill will also require that it specify a default payment option so that claimants are not forced to make a choice if they are unable to do so.

Yesterday it was four years ago to the day—on 1 December 2005—that the then Premier and Attorney General announced and introduced into this House legislation that was, and still is, a great victory for asbestos

victims. It was an agreement—years in the making, and worth many hundreds of millions of dollars—led by the late great warrior Bernie Banton, of which we were, and are still, very proud. As I said at the outset of my speech, I honour the memory of Bernie and the many other victims who did not survive to see this day. It was truly an historic agreement, to stand the test of time. This legislation will assist at a time that represents the worst downturn since the Great Depression. We are in exceptional circumstances, and we have acted.

I take this opportunity to once again thank Karen Banton, Chief Executive Officer of the Bernie Banton Foundation; Paul Bastian of the Australian Manufacturing Workers Union; Barry Robson, President of the Asbestos Diseases Foundation of Australia; Mark Lennon of Unions New South Wales; Jeff Lawrence from the Australian Council of Trade Unions and all of their predecessors, and everyone who has worked absolutely tirelessly on this campaign for an extended period. I also acknowledge and thank them for their support of this bill. I am very pleased and proud to commend the bill to the House.

Mr GREG SMITH (Epping) [10.58 a.m.]: The Liberals-Nationals do not oppose this legislation. In fact, we are pleased to make the effort, despite very little notice of this legislation, to assist its passage through the Parliament. We too honour the memory of Bernie Banton and applaud particularly his wife, Karen, for running the Bernie Banton Foundation, and all those who have assisted in this campaign. The purpose of the legislation is to amend the James Hardie Former Subsidiaries (Winding up and Administration) Act 2005, with the following objects:

> (a) to authorise the trustee of the SPF (the **SPF trustee**) and the liable entities to enter into agreements to which the State is a party with respect to the provision of a loan facility (which will be partly funded by the Commonwealth) to the SPF trustee to assist in funding the payment of the payable liabilities of the liable entities, and
>
> (b) to make certain other amendments to the Act that facilitate the provision and use of funds under the loan facility, and
>
> (c) to clarify the powers of the Supreme Court in relation to the approval of a payment scheme under the Act for the payment of claims for payable liabilities of the liable entities.

Whilst the Opposition supports and applauds this special funding for asbestosis and mesothelioma sufferers and recognises the awful prospects that will continue in our community because of this terrible curse of a disease, we remind the Parliament that Labor stripped the rights of workers generally under the workers compensation legislation in this State and the rights of workers injured in industrial accidents, motor vehicle accidents and other types of accidents so that these days they can claim only a pittance. Some of the unions cooperated in the cutting of these rights.

Ms Marie Andrews: Point of order: The House is debating an asbestos-related bill. The comments of the member for Epping have no relevance to the legislation before the House. I ask that the member be brought back to the leave of the bill.

ACTING-SPEAKER (Mr Matthew Morris): Order! I remind the member for Epping that this bill relates to James Hardie. He will confine his remarks to the leave of the bill.

Mr GREG SMITH: In response to the Minister's comments that the Howard Government had not assisted, the Howard Government inherited a massive deficit from the Keating Government and put this country back into a healthy state. That is how we can continue to resist the economic downturn that has occurred throughout the world. Australia has fared much better than other countries and is able to contribute to and guarantee these types of funds because of the solid financial administration by the Howard Government and Peter Costello as Treasurer. The current Rudd Government has put this country into the red. The 2005 Act was an Act to facilitate funding by James Hardie Industries NV of compensation claims against certain former subsidiaries of the James Hardie corporate group for asbestos-related harm and to provide for the winding up of these former subsidiaries. The overview of the bill sets out the historical background as follows:

> The James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 enabled James Hardie Industries NV to set up a special purpose trust fund (the SPF) to provide funding with respect to the payment of certain asbestos-related liabilities of former subsidiaries of the James Hardie group of companies. The Act also set up a State scheme for the winding up and other external administration over an extended period of the liable entities.
>
> Funding contributions to the SPF for the payment of the payable liabilities of the liable entities is governed by an agreement entered into by the State and James Hardie Industries NV, (the Final Funding Agreement). The Final Funding Agreement requires James Hardie Industries NV to make Funding contributions to the SPF during any particular financial year based on its free cash flow. If James Hardie Industries NV has negative free cash flow, it is not required to make any contribution to the relevant financial year. James Hardie Industries NV has not made any contribution to the SPF by the financial year of 2009-2010.

Unfortunately, earlier this year the Asbestos Injury Compensation Fund notified James Hardie and the New South Wales Government that it was reasonably foreseeable that within two years the available assets of the fund were likely to be insufficient to fund the payment of all reasonably foreseeable liabilities. As a result, it appears likely that in the absence of alternative funding arrangements the SPF will cease in the short term to be able to provide funding for the payment in full of all the payable liabilities of the liable entities. The Federal and New South Wales governments subsequently agreed to loan up to $320 million to the compensation fund for James Hardie asbestos victims. A joint statement by the Prime Minister and the New South Wales Premier said that the Federal Government will lend New South Wales up to $160 million, which the State put towards a loan facility of up to $320 million to top up the fund. The statement said that the loan facility would cover three years of compensation payments at current claim rates. James Hardie has blamed the global financial crisis for a shortfall in the fund and its inability to make contributions this year.

I now turn to the details of the bill. Schedule 1 [10] inserts a new division in part 4 of the James Hardie Former Subsidiaries (Winding up and Administration) Act 2005, which henceforth I will call the principal Act, to authorise the SPF trustee and the liable entities to enter into one or more agreements to which the State is to be a party for the provision by the SPF trustee and the liable entities of guarantees and securities in respect of such an agreement or facility. I am advised that the arrangement referred to is a direct loan by the Government to the fund. Schedule 1 [2] amends section 4 of the principal Act to provide that a loan security expense of a liable entity is one of its operating expenses for the purposes of the Act. A loan security expense is defined as any amount that the entity is required to pay under or in connection with a relevant loan facility agreement. Schedule 1 [7] amends section 24 of the Act to enable the SPF trustee to give directions to a liable entity regarding compliance with the entity's obligations under a relevant loan facility agreement, the giving or granting of guarantees and securities in connection with an authorised loan facility or relevant loan facility agreement, or proposed authorised loan facility or relevant loan facility agreement.

Schedule 1 [19] amends section 59 of the principal Act to make it clear that the section does not prevent or limit the enforcement of a relevant loan facility agreement by the parties to the agreement. Schedule 1 [20] amends section 63 of the principal Act to provide that entry into a relevant loan facility agreement, or the giving of a guarantee or the granting of a security under or as contemplated by any such agreement, is not subject to State tax. Importantly, schedule 1 [21] inserts proposed section 64A in the principal Act to require the Minister to cause a copy of any relevant loan facility agreement to be tabled in each House of Parliament as soon as is reasonably practicable after it is signed. In other words, the loan facility agreement has not as yet been finalised. I wish the draft were before us.

In relation to approved payment schemes, schedule 1 [13] to [18] amends section 35 of the principal Act to enable the Supreme Court to approve a payment scheme under the Act for the payment of claims for payable liabilities of the liable entities that: one, commences before the time when the SPF ceases to have sufficient funds to pay all of the payable liabilities of the liable entities as and when they fall due for payment; two, sets an interest rate to be applied in calculating the interest payable on any part of the payable liabilities of the liable entities that would otherwise be payable as interest because that part is not paid during the currency of the scheme; three, enables small claims to be paid in full during the currency of the scheme; and, four, allows claimants for the payment of proven personal asbestos claims to elect between different instalment options for the part payment of their claims during the currency of the scheme.

Schedule 1 [3] inserts proposed section 4A in the principal Act to define the term "small claim". Initially, a small claim is defined to mean a claim that does not exceed $25,000. The proposed section provides for the indexation of this amount during each year that an approved payment scheme is in force, by order of the Minister, by reference to changes in the consumer price index. As I said, this bill has been brought on with almost unprecedented haste and without any reasonable explanation as to why it has been left to the eleventh hour of this term of Parliament. However, this morning I had the assistance of a briefing paper. The bill supports the loan by ensuring that the fund has power to enter into the loan facility agreement and can direct James Hardie's former asbestos subsidiaries to guarantee the fund's obligations under the loan facility agreement and provide security over the insurance recoveries. It also ensures that the loan facility agreement is consistent with the fund's charitable purpose.

The bill also provides that the loan facility agreement, and the guarantees and security, are exempt from State taxes. This exemption is consistent with the provisions enacted in relation to the Final Funding Agreement, and will avoid the State paying with one hand, through the loan, and taking money back with the other, through stamp duty on the security. James Hardie has announced that it expects to be able to make a payment to the fund from the current year's cash flow. This amount will be payable in the middle of 2010, although it may not be enough to cover claims payments for the 2010-11 financial year.

James Hardie's payments under the Final Funding Agreement will, over time, catch up with the needs of the fund. While this happens, for the next few years the loan from the New South Wales and Commonwealth governments will provide security and certainty for victims. Currently, the Government is negotiating the documents for this particular loan of up to $320 million, but the relevant loan facility agreements are not yet finalised. The bill provides that the Minister will table a copy of the relevant loan facility agreements as soon as is reasonably practicable after the agreement has been signed. This is the same approach that the Government followed in relation to the Final Funding Agreement, and it will ensure that there is complete transparency in relation to the loan.

The bill also proposes to make some amendments to the approved payment scheme provisions in the Act. Although the Government hopes that payment by instalments will never be required, the fund has identified some possible improvements to these provisions in the course of all the work that it has done in considering an instalment scheme. Rather than waste this work, the Government is prepared to introduce the amendments requested by the fund. Those amendments are as follows: to make it clear that an approved payment scheme can commence before the fund completely runs out of money; to allow the court to approve an interest rate to apply to deferred payments, which compensates for inflation but which need not be a commercial interest rate; to enable the fund to pay small claims in full, rather than by instalment; and to allow the court to approve a scheme that provides for different payment options to be offered to claimants so that they can make a choice.

The loan arrangement will avoid the need for the fund to apply to the Minister and then to the Supreme Court for approval to start rationing claims payments. The loan will ensure that claimants during these years get paid in full. It will also carry the fund through to a time when the recovery of the United States of America housing market and James Hardie's expected payments into the fund should be more certain. The loan has no impact on James Hardie's obligation to pay under the Final Funding Agreement. The funding mechanism requires that James Hardie keep making payments until all claims are paid in full. The agreements to implement the loan will require the loan to be repaid as quickly as possible as James Hardie's payments to the fund improve.

One argument against the legislation is that as the loan facility has not as yet been finalised, and the terms of the loan are not forthcoming, we are forced to accept, on faith, the Government's ability to negotiate a viable commercial loan arrangement that does not leave the people of New South Wales at significant financial risk. We are reliant upon James Hardie's prediction that it expects to be able to make a payment to the fund from the current year's cash flow. Apart from that, this is a good piece of legislation, as it will help sufferers of asbestos-related diseases. The Liberals-Nationals Coalition does not oppose this bill.

Ms MARIE ANDREWS (Gosford) [11.14 a.m.]: I speak on the James Hardie Former Subsidiaries (Winding Up and Administration) Amendment Bill 2009. Some years ago in this House the then Attorney General introduced a momentous piece of legislation—landmark legislation that provided for an agreement to pay asbestos victims $1.78 billion over 40 years. The legislation was a result of the tenacious efforts of the New South Wales Labor Government, the Australian Council of Trade Unions and Unions NSW, in partnership with victims and their advocates headed by the remarkable Bernie Banton and Barry Robson. Bernie's good wife, Karen, who is in the Speaker's gallery today, always supported him in his fight for justice for asbestos victims. It was a proud moment indeed.

However, as we know, the global economic crisis has now affected James Hardie's ability to pay into the asbestos compensation fund, so today we are debating legislation that injects a loan of $320 million into the fund: $160 million from New South Wales and $160 million from the Commonwealth. This is, indeed, another remarkable piece of legislation. Just as we took the lead in putting together the Jackson inquiry and funding agreement, even though it was a national issue affecting every State and Territory, today, once again, we are leading the charge to secure justice for victims. I am proud that this Government never ceased to believe that James Hardie had a legal and moral duty to stand by its victims, because the sad reality of asbestos-related diseases is that there is no cure and few effective treatments; only the prospect of a long and painful death. We must stand up for these victims. This legislation will help give relief and peace of mind to them in knowing that their entitlements will continue to be paid.

I also take this opportunity to acknowledge that the Government has taken action on another front. The Premier has indicated his concern that the planned demerger of former asbestos manufacturer CSR could reduce the company's assets, potentially leaving asbestos victims in limbo. The Premier has written to the chairman of

the Australian Securities and Investments Commission urging the commission to closely scrutinise this demerger. I congratulate the Premier for his efforts in that regard. Currently CSR pays a considerable amount of compensation for asbestos-related diseases, and it is likely that the company will face many more claims in the years to come. We do not want any more shortfalls in funding for asbestos compensation.

The Premier has asked the Australian Securities and Investments Commission to ensure that CSR's application to court for the demerger to be considered by shareholders, fully discloses actuarial advice in relation to CSR's future asbestos liabilities. We are determined to do everything we can to make sure there is adequate funding and that sufferers of asbestos-related disease and their families get the compensation to which they are justly entitled. Over the years I have met with constituents who are asbestos victims and their families. I have always admired them for being so brave in dealing with their various health issues and the dignified way in which they, and their families, have gone about campaigning for justice.

I remember one occasion a few years ago when Unions NSW organised a meeting held at the Central Coast Leagues Club as part of the campaign to achieve justice for asbestos victims. On that memorable occasion Bernie Banton delivered one of the best speeches I have ever heard in my life—and, believe me, over the years I have heard thousands of speeches. I was the next speaker on the list and I remember saying that Bernie's contribution was a very hard act to follow. It was a truly memorable meeting, and I had the great pleasure of meeting the wonderful and courageous Bernie Banton and his good wife, Karen.

More recently, the member for Wyong and I attended a meeting of the Asbestos Diseases Foundation, and again the venue was the Central Coast Leagues Club in Gosford. I very much admire Barry Robson and the many others who are behind the foundation, and I congratulate them on the great work they are doing in supporting and assisting victims of asbestos-related diseases and their families. That meeting was very well attended. The foundation had organised a great list of speakers, including a medical expert in lung diseases from Northern Sydney Central Coast Health Service, a solicitor from a well-renowned legal company, and many others. I commend the bill to the House.

Mr MICHAEL DALEY (Maroubra—Minister for Police, and Minister for Finance) [11.19 a.m.], in reply: I thank the member for Epping and the member for Gosford for their contributions to the debate. I thank also the Opposition for not opposing the James Hardie Former Subsidiaries (Winding up and Administration) Amendment Bill 2009. Today is not the day, and now is not the moment, to allow this debate to devolve into political jousting, but I make only one point. The assertion by the member for Epping that a deficit inherited by the former Commonwealth Government in 1996 somehow impacted on its ability to assist the company is totally flawed. I recall the Commonwealth Government had budget surpluses for seven or eight years and in the year preceding arranging these facilities, in 2004-05, the budget surplus was somewhere between $10 billion and $20 billion. It is a simple matter of historical record that the former Commonwealth Government could have assisted greatly and simply chose not to do so.

This bill authorises and approves a loan facility agreement, associated guarantees and security, and ensures that the special purpose trust fund has the authority to repay the loan. The bill ensures that the fund can direct former James Hardie asbestos subsidiaries to guarantee the fund's obligations under the loan facility agreement and to provide security for the loan and guarantees. The amendments make clear that the loan is, indeed, a loan and that James Hardie remains responsible, as it should, for ensuring that all asbestos claims are paid in full and in a timely manner. Once again I acknowledge the work of everyone, all the predecessors of those in office, who helped to ensure that this bill became a reality. Once again I acknowledge Karen Banton. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

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

RURAL LANDS PROTECTION AMENDMENT BILL 2009

Agreement in Principle

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [11.21 a.m.], on behalf of Ms Verity Firth: I move:

That this bill be now agreed to in principle.

This bill was introduced in the other place on 3 June 2009 and is in the same form. The second reading speech appears at pages 15,548 to 15,550 in the *Hansard* pamphlet for that day. I commend the bill to the House.

Mr JOHN WILLIAMS (Murray-Darling) [11.22 a.m.]: I lead on behalf of the Opposition in the lower House regarding the Rural Lands Protection Amendment Bill 2009. The bill results from a review undertaken to examine the rating system applicable to rural landholders. The bill has numerous objectives, including abolishing minimum rates and increasing the minimal rateable area to 10 hectares. No doubt this will alleviate many concerns of North Coast members who discovered many hobby farmers in their regions were caught in the net. The provisions of this bill will remove those hobby farmers from the rating regime of the Livestock Health and Pest Authorities [LHPA]. The new rating system will apply more to owners of property for farming purposes.

The object of the bill to remove the notional carrying capacity causes much concern, which I have raised with the Executive Officer of the New South Wales Livestock Health and Pest Authorities. Graziers in the Western Division particularly raised concern about the one-size-fits-all concept and about rates being charged on a per hectare basis rather than on the productivity of the land. For example, in the Western Division farms might have one sheep per 10 acres, whereas farms in coastal areas would have a substantially higher ratio of sheep per hectare. The bill allows for recognition by the State council that a successful rollout of this provision will take about two years. The bill contains amendments that are based on the recommendations of Mr Richard Bull's report in relation to the powers of the Livestock Health and Pest Authorities in the charging of rates. Most property owners would agree that lifting the notional carrying capacity is commendable because in the current drought many properties would be carrying far fewer stock than their notional capacity and would receive no reduction in rates.

It is acknowledged that the Livestock Health and Pest Authorities require funds to operate and to provide their services. Obviously, the authorities will roll out a fair and equitable rating system that provides for their needs and services and is also fair and just to landholders. The Coalition moved an amendment to the bill in the upper House to take account of the consumer price index to prevent rate increases getting out of hand. The crossbenchers did not support the amendment and it was defeated. Consequently, that removed a possible safety net as the Livestock Health and Pest Authorities do not have to determine rate increases based on a formula that is fair and equitable for landholders.

The many State pastoral protection boards have been amalgamated into 14 new boards. Concerns have been raised about the approach of the new boards to farmers generating income from different land uses, particularly in the Riverina and western areas where some farmers will begin to carry out different activities. Broadacre farming might commence, which will probably produce more bangs for the buck. In the current climate it is more difficult for grazing to maintain adequate returns on the land. Therefore, the one-size-fits-all formula will not be quite appropriate for the amalgamated boards operating in the western area. The Coalition believes the major flaw in the bill is that it does not provide a safety net for rate increases but instead provides an opportunity for significant increases.

The bill provides no protection against significant rate increases. The Minister approves rate increases, but the constant concern is that the boards' running and operating costs may rise to such an extent that they need to be subsidised through charges to landholders. Somewhere along the line we must ensure that these organisations implement efficiencies and that they do not impose huge rate increases to support bad management. There is no doubt that the opportunity exists for them to indulge in uncontrolled rate increases.

The Coalition represents most of the farming areas in New South Wales and our members get regular feedback from farmers about their concerns. Change is difficult. We are moving away from the traditional manner in which these charges have been levied into a new and untried arena. The Minister should ensure that modelling is undertaken so that livestock health and pest authorities impose appropriate rates. That modelling would produce a fair and equitable distribution and the per-hectare rating would mean there would be no real

change. Of course, if the boards operate in the efficient manner that we have been told they will, there will be no real change. Given the debate that occurred during the amalgamation process, some of the new boards might realise the efficiencies that were promised and reduce their costs and therefore the rates that they impose on landholders. That was promised and it was one of the stated objectives of the amalgamations.

In the spirit of that process, the Minister should recognise that landholders expect a reduction in rates and a fair and equitable implementation of the Bull report. Once this legislation is passed, it is obviously out of our hands. The next impact we will experience will be when constituents come to us to express their disgust about rate increases. The Minister should be mindful of that. When some boards were amalgamated their ratepayers experienced rate increases of 26 per cent. There was no process to deal with that and the Government did not offer any assistance. It simply said that that was the way it was going to be; larger rate bills were sent out and ratepayers were expected to pay them.

Clearly, if a livestock health and pest authority decides to increase rates disproportionately, the Minister must examine the running of the organisation and establish whether it is blowing its budget and expecting ratepayers to foot the bill. The Opposition does not oppose the bill. As the Bull report indicated, change is necessary. However, like the Opposition, ratepayers across New South Wales are concerned about the changes. Our primary concern will always be that this legislation will not result in change. I do not think that people are entering into this arrangement in the expectation that rates will increase. In fact, we may see a reduction in rates if the promised efficiencies are rolled out.

Mr GERARD MARTIN (Bathurst) [11.36 a.m.]: I am very happy to support the Rural Lands Protection Amendment Bill. I cannot disagree with much of what the member for Murray-Darling has said. Members who represent rural electorates, as I do, often hear concerns about the rates imposed and services provided by rural land protection boards, which are now known as livestock health and pest authorities. The Government has supported reform in this area in recent years and the number of boards has decreased from 48 to 14. That was not done as a result of a Government directive but as a result of a recommendation made by an autonomous, independent State council. It examined the issue and made recommendations to the Minister. That council comprises elected representatives, so it is the product of a democratic process.

There will always be argument when an organisation is rationalised—or centralised as some people call it. Major efficiencies have been achieved with the introduction of common management and IT systems and so on. It is true that the proof of the pudding will be in the eating, and in time we will see just how effective this strategy has been. Following the amalgamations a serious attempt was made to reform the rating structure. There have always been arguments about the carrying capacity of land. It depended on whether one had a town block or a rural block. People on five acres said that they should not have to pay anything when all the benefits went to the major farmers. The reality is that everybody must make a contribution, and the minimal rateable area has been increased to 10 hectares. I believe we have struck a sensible balance.

Some significant rate increases have been imposed, but many of them came off a low base. The situation was also aggravated by the fact that some rates had been suspended. When they were reactivated and the next year's rates were levied the percentage increase was exaggerated. The Minister now has oversight of the situation. As is the case with local government, any increase must be signed off by the Minister of the day. The Rural Lands Protection Amendment Bill 2009 maintains the independence of the Livestock Health and Pest Authorities while responding to calls for ministerial oversight of rates. It retains a system that operates at the local level because that is vital to allow authorities to continue to provide a range of services that will benefit the majority of landholders. The authorities have a wide range of responsibilities and play a direct role in maintaining healthy and functional rural communities.

We have faced massive challenges in that area over the past decade because of the continuing drought. Livestock Health and Pest Authorities play a vital role in being responsible for animal health surveillance in New South Wales. They investigate disease outbreaks and provide advice on herd and flock health problems such as Johne's disease in sheep and cattle and, of course, footrot in sheep, which has been largely eliminated—although there are still traces of it in the central tablelands area that I represent. Boards also play a significant role in emergency control of animal diseases within the State. We all remember the equine influenza debacle of a year or two ago. Boards are also responsible for managing declared pest animals, such as rabbits, wild dogs, feral pigs, et cetera.

The fight against plague locusts really underlines how important it is to retain autonomous local bodies. In the campaign to control locusts in New South Wales, Livestock Health and Pest Authorities play a key role

together with Industry and Investment New South Wales, which formerly was the Department of Agriculture—the New South Wales Farmers' Association, the Australian Plague Locust Commission and New South Wales land managers. The primary aim of their coordinated approach is to contain the outbreak of plague locusts at the nymphal stage by using ground control to reduce the number of locusts that are migrating, breeding and laying more eggs.

Local Livestock Health and Pest Authorities interface with local communities in locust eradication campaigns. They provide advice to landholders on appropriate control measures, issue insecticides to eligible landholders and implement locust control measures where appropriate. During the most recent campaign against locusts, insecticide was used to treat 113,000 hectares of first generation locusts, 23,000 hectares of second generation locusts, and 49,000 hectares of third generation locusts. To date, this effort has been phenomenally successful. It is estimated that, if left untreated, locusts could have destroyed almost $600 million worth of crops and pastures in just a two-month period.

The bill also will make amendments to the Rural Lands Protection Act 1998 and the Rural Lands Protection Amendment Act 2008. The amendments will give the Minister for Primary Industries power to approve all rates set by Livestock Health and Pest Authorities and their State council. That is the Government's response to the issue of percentage increases that were discussed earlier. This amending bill will provide an additional level of ministerial oversight to ensure that rate increases are equitable and fair and that excessive increases are avoided in future. We are all hoping that over time the new structure will result in efficiencies that in turn will result in lower costs for ratepayers in areas administered by local boards.

Based on the actions of the few authorities in setting rates this year, it was evident that the autonomy of local Livestock Health and Pest Authorities should be balanced with a degree of ministerial oversight in relation to rates. That is always a difficult balance to strike, but I believe the Minister has got the balance right. The boards will retain the right to set rates through the Rural Lands Protection Board State Council, but there will be ministerial oversight and increases will have to be justified. This legislation provides an additional cautionary apparatus. All round, it is good legislation. It demonstrates that the Government listens to the people of New South Wales, particularly those who live in rural areas of New South Wales. If we see good reason to make changes we will; but we will not do that as a response to the historically consistent bleating of some members opposite.

Mr GEOFF PROVEST (Tweed) [11.43 a.m.]: In participating in debate on the Rural Lands Protection Amendment Bill 2009, I am 100 per cent for the Tweed. It may come as a surprise to some members that some primary producers are based in the Tweed electorate. This legislation already has had an impact on those constituents because, for example, the calculation of rates based on the minimum rateable area being 10 hectares captures farmland that has been subdivided and sold to several purchasers. The purpose of the bill is to amend the Rural Lands Protection Act 1998 and the Rural Lands Protection Act 2008 to enact required changes to the Livestock Health and Pest Authorities rating system. The bill aims to deliver a balance between decisions made by authorities at a local level with a degree of ministerial oversight.

The Rural Lands Protection Act 2008 was passed by Parliament in December last year and its implementation has resulted in significant changes brought into effect by the newly formed Livestock Health and Pest Authorities. The Act was the result of two independent reviews—the system review of the New South Wales Rural Lands Protection Board in 2008, which was commissioned by the Rural Lands Protection Board State Council, and the rating system of the Rural Lands Protection Board, which was undertaken by Richard Bull. The Rural Lands Protection Act 2008 resulted in significant structural and operational changes. Many of the changes took effect from 1 January this year. The most significant aspect was changes made to the rating system under which three authorities increased their rates far beyond the consumer price index levels. In one instance, the legislation resulted in an increase of 26 per cent.

It is appropriate to point out that many rural areas are in their ninth year of drought and they are doing it pretty tough. My relatives live near Nyngan, Wellington and Cobar and are people of hardy stock, which is good to see. However, approximately eight years of drought and consequent loss of income has made their lives very hard. Yesterday the member for Burrinjuck moved a motion to obtain relief for farmers who are paying water charges for a service they are not receiving, which is extremely unfair. Awareness of the plight of our farmers is increasing, particularly in Sydney and throughout metropolitan centres. That is good because farmers are the backbone of the Australian economy and they put food on our plates.

As the Act currently stands, neither the Government nor the Minister has power to direct individual Livestock Health and Pest Authorities with respect to rates. The current legislation established the State Policy

Council of Livestock Health and Pest Authorities, the State Management Council of Livestock Health and Pest Authorities and 14 individual livestock and pest authorities. Members who preceded me in this debate referred to rates and ministerial discretion. It is disappointing that amendments moved by the Liberal-Nationals Opposition to abolish rate increases of 10 per cent and replace them with rate increases in line with consumer price index increases were defeated by the Shooters Party and the Christian Democratic Party voting with the Government. I do not know why the crossbench parties voted against the Opposition's amendments. Perhaps if they visited rural areas and listened to people to whom the Liberal-Nationals Opposition speaks regularly, they would begin to understand the impact of their decision.

While it is fine to suggest that ministerial discretion is fair and reasonable, the reality is that the ministerial discretion exercised by the Minister for Local Government is responsible for a number of rates increases in local Tweed councils over a number of years and the Independent Pricing and Regulatory Tribunal [IPART] has increased the cost of electricity. Working mums and dads, people on fixed incomes, pensioners and hardworking people have borne 40 per cent increases in the cost of electricity. Recent suggestions indicate that that cost may increase again by 40 per cent. The increases do not appear to be levied by a process that is fair and equitable. The bill will have a significant impact on farmers.

The bill will amend the current legislation by giving the Minister for Primary Industries power to approve all rates set by the Livestock Health and Pest Authorities and their State management council. It will defer replacing notional carrying capacity with an amount payable per hectare as a basis for setting rates. The shadow Minister for Industry in the Legislative Council, the Hon. Duncan Gay, cited startling statistics in his contribution to the second reading debate. As a parliamentary representative of a coastal electorate, I was very interested to learn that last year livestock health and pest authority veterinarians carried out 10,000 disease investigations, 7,600 other consultations with producers, 6,460 livestock certifications for export and 2,520 stock disease searches.

The disease searches figure is very pertinent. Obviously, my electorate is not far from Queensland, and the Hendra virus, an insidious virus about which the Veterinary Association of Australia briefed members of The Nationals, is very hard to detect in its early stages. Those inspections are crucial. The authority veterinarians also conducted 2,335 saleyards inspections, 227 exotic disease exclusions and 204 declared disease reports. The authority does an excellent job. It concerns me that various rumours have been circulating, in Sydney and out in the field, that this Labor Government seems pretty much intent on cutting back services with budget restrictions. Many services are absolutely vital to our hardworking farmers in the field.

The Liberals and The Nationals have had a fairly extensive petition signed by farmers on the South Coast, on the North Coast and in western New South Wales. I do not know one person who has not clamoured to sign that petition, which is particularly about rates. Bear in mind that only yesterday interest rates rose. Many of our farmers have had seven years of drought, they have loans and overdrafts, and this is just another impost on them. I take my hat off to them for their dedication and commitment. The bill has limited support from the New South Wales Farmers Association and the current Livestock Health and Pest Authority State Chairman, David Lister. He also supports the two-year delay in replacing nominal carrying capacity and he opposes all rates having to be approved by the Minister. He believes it should be only rates that have been increased above the consumer price index. Obviously, the bill has the support of the Richard Bull inquiry.

There are a number of arguments for and against the legislation. The major ones against concern the consumer price index. As I said earlier, in the other place, for reasons best known to themselves and probably a lack of knowledge about our farming industry, the Shooters Party and Reverend the Hon. Fred Nile chose to oppose these amendments which has left farmers in the lurch. Those members are not doing justice to the farmers, who are our backbone.

I am not opposing the bill; I am disappointed that those amendments were not passed. It allows the Minister to raise rates. We have heard about the 26 per cent increase in rate charges. A number of charges—local council rates, electricity charges and a raft of other charges—seem to be at the discretion of the Minister. I have some major concerns about that. Basically all those concerns relate to previous performance. No member in this place or in the community would have experienced a rate decrease as costs tend to increase. The cost of running the farm is also increasing significantly, overlaid by seven years of drought. We have to take a more responsible view. As I said, I do not oppose the bill.

Mr FRANK TERENZINI (Maitland) [11.53 a.m.]: I support the Rural Lands Protection Amendment Bill 2009. This year has been a time of enormous change for the livestock health and pest authority system. The

new authorities have been adjusting to the raft of reforms brought about last year by changes to the Rural Lands Protection Act 1998. These reforms delivered much-needed changes to the structure and governance of the former rural lands protection board system. As part of these reforms, 47 of the former rural lands protection boards were amalgamated into 14 new Livestock Health and Pest Authorities. In some cases three or four of the former boards were amalgamated into a single authority.

A significant amount has been achieved in a short time. The improved governance arrangements, which were central to the reforms, have been put in place. New general managers were appointed to the authorities early in the year and a general election for directors was held on 19 June. Six of the eight new directors for most authorities were elected through this process and took office on 1 July. These elected directors have since appointed, on merit, two additional directors who have appropriate skills and experience. This is a key part of the reforms to improve the corporate governance of the system. A new State Policy Council has been formed with two members from each of the 14 Livestock Health and Pest Authorities. The Policy Council met for the first time on 16 October this year.

The State Management Council is also being established, with the Policy Council currently conducting a merit selection process for eight members. The new State Management Council members will take office on 1 January 2010. During this period of change, the authorities have continued to provide services on which ratepayers rely. Local authorities have been at the coalface—or should that be the farm gate—in the current plague locust campaign. Pest control programs—including aerial baiting programs for wild dogs—have continued. This has occurred at the same time the authorities have been rolling out the sheep national livestock identification system to better manage biosecurity risks.

Change can be difficult and complex but it is often needed if we are to achieve better things. It has been an extraordinary effort to bring about substantial change in this system whilst at the same time providing services on the ground, with veterinary assistance and advice and also the rangers and staff at these offices. The office in the Maitland area covers a substantial number of ratepayers. Two authorities have been created from one old board. The Maitland board was the only one that ended up being split and it now encompasses the mid North Coast and the Cumberland area. The officers who work in that office, as well as a veterinarian and a ranger, have been exceptional in the way they have dealt with these changes and in the way they have explained them to ratepayers. I pay tribute to those officers. The change has been difficult. The teething problems have slowly and steadily been ironed out. I have no doubt those services remain.

I organised a public meeting in the Millers Forest area and quite a few ratepayers turned up. They had no real problem with the changes. They understood that change needed to be made to the system to rationalise and better streamline it. Their main concern is with the services on the ground. They wanted to ensure that the service is maintained on the ground, and that is what has happened in the Maitland area through the efforts of the Minister's office, the staff at the Maitland office and me. We still need to work through some issues. The boundary change has been an enormous one for the office, the staff and the ratepayers. We will continue to work through that. On the whole, keeping those services going while this change has come about has been a remarkable effort on their part and I thank my constituents as well as those officers.

We must not dismiss these reforms out of hand as has happened in some quarters. We needed that change to maintain the service. One of the important changes we have made is the ministerial oversight to the increase in rates. It was unfortunate that in some authorities the rise was more than expected. Members opposite may laugh but under the old system some authorities were charging so much and other authorities were charging something else. That change had to come about. It is unfortunate and disappointing that some new authorities went beyond what was considered to be correct. The Minister acknowledged that and stepped in, which is why we are debating this bill today. The Minister is on record as saying that this bill will ensure that any rise will be a reasonable rise and not in excess of the consumer price index. That is a welcome change. With the increased service we want to ensure that we do not get rate rises that are out of kilter with the consumer price index [CPI]. That ensures the independence of the system; at the same time, the Minister must approve the rises. That is a welcome change.

The role of the Livestock Health and Pest Authorities is important. Governments must always ensure that services are maintained. However, there comes a time when the Government must ask whether a service—any government service—is viable. Is the service viable or must the Government make changes to ensure that the service is maintained? Other States do not have this service. The decision was made to rationalise the system in order to maintain the service. My constituents appreciated the decision to maintain a service that is not available in other States. Carrying capacity has been an issue for many years. Many of us have had constituents

come into our offices and argue the toss in relation to carrying capacity. Everyone is an expert when it comes to carrying capacity. Farmers, including hobby farmers, do not agree with the carrying capacity. It is complex and confusing. Ratepayers do not understand how it is calculated. Everyone thinks they have a higher carrying capacity at certain stages and a lower carrying capacity at other times. It is sensible to introduce an objective measure of calculating the carrying capacity on a per hectare basis, which no-one can argue with. I welcome that improvement.

I welcome the decision to defer the introduction of the formula for calculating the notional carrying capacity until other measures are put in place. It must be remembered that New South Wales has undergone a huge change. It is important that the teething problems are worked through and resolved before other measures take effect. That is why I am pleased that the introduction of setting the rates on a per hectare basis is being deferred to a later date. It was proposed to take effect in January 2010, but it will now take effect on a date to be proclaimed later. Rates that are currently calculated on the basis of the notional carrying capacity of landholdings will be converted, and that will be a welcome change. I wholeheartedly support this bill, which will ensure that we continue to provide this service, especially to my constituents. A lot of confusion has dissipated since the public meeting I held in the Millers Forest area. That confusion was brought about mainly because of the first rates notices that were received, which were a big shock. Indeed, my rates notice showed a large increase in percentage terms but it was not a big increase in dollar terms.

Mr Andrew Constance: Did you pay them?

Mr FRANK TERENZINI: I paid them immediately, as did my constituents. Once we explained to the ratepayers how the rates were calculated they were okay with that; it was not a huge issue. They simply did not understand how the rates were calculated; now that they understand, they welcome the change and maintenance of the service. Their main priority was maintenance of the service. They want to be able to continue calling the veterinarian or the ranger for advice, particularly during a locust plague or disease events. That is when the service comes to the fore. One welcome amendment is the ability of the authorities to rate differently within zones, which is important. I received representations from constituents about the different characteristics of farmland and the different conditions that apply. The ability to rate within zones differentially ensures that we take into account different circumstances, because the authorities are larger than the old boards. That is a welcome change. The bill provides the new authorities with independence and total flexibility. It also provides for the Minister to oversight the most crucial aspect, which is the setting of rates. That is a good balance and I think it will work much better. For those reasons I commend the bill to the House.

Mr ANDREW CONSTANCE (Bega) [12.04 p.m.]: It should come as no surprise to members in this place that the Government, after introducing an amending bill in 2008, has had to come back and introduce another amending bill in 2009. The reality is that Labor is out of touch with rural and regional New South Wales. That is not surprising when the only two Labor representatives outside the Sydney Basin are the member for Monaro and the member for Bathurst, both of whom have misjudged this issue every step of the way. In particular, the member for Monaro, in writing to constituents, made it clear that he did not support the Livestock Health and Pest Authorities when they were set up. He tried to hold to the view in Monaro that the authorities should not exist, that the veterinarians should be absorbed back into the Department of Primary Industries and councils should control weeds and feral animals. Indeed, he questioned why the authorities needed to exist in the first place. It is all very well for the member for Monaro to write to his constituents about that, yet he comes into this place and does something completely different.

Mr Andrew Fraser: He misled his constituents.

Mr ANDREW CONSTANCE: That is right—he misled the people of Monaro. When the rates notices were issued there was outrage in the farming community, despite the fact that people like the member for Monaro and the then Minister, Ian Macdonald, said that there would not be rate increases, that the changes would lead to cost efficiencies and streamline the process, and that the farming community should not worry. Lo and behold! When people received their rates notices they found that their rates had increased, in some cases to an astronomical level. Under the leadership of Duncan Gay in the other place, the Opposition has tried to get the Government to amend the bill to cap rate increases at the consumer price index. It will come as no surprise that the Labor Party, together with Reverend the Hon. Fred Nile, opposed that sensible amendment.

The farming community wants rates to be capped at the CPI. Farmers have said that in public meetings held throughout the State. Many public meetings have been held in the south-east, where farmers questioned the overall value in having what were formerly rural lands protection boards and now the Livestock Health and Pest

Authorities. For Labor to stand in the way of a sensible measure that would cap rate increases at the CPI is simply outrageous. Given that Labor has chosen this course, it will find that this amending legislation does not resolve the problem of rate increases. We acknowledge that ministerial oversight is important, but we want a cap on rate increases.

The matter was debated in the upper House last night. Again, Labor showed that it does not care about the farming community by refusing to support our sensible amendment, simply because it is willing to play politics with the farming community in this way. Another point that needs to be made is that the farming community had a degree of certainty when the Government indicated that the concept of notional carrying capacity would be replaced with a rating system that consisted of a base amount and then an amount calculated on a per hectare basis. The farming community expected that to come in on 1 January 2010; the date will now be proclaimed at a later date. The Minister needs to explain when the new system will come into effect, because the farming community wants certainty. It expected the change to occur next year, but obviously that is now not the case.

The Opposition does not want to obstruct this amending legislation. We have given a commitment to the farming community that we will review the system when, hopefully, we win office in March 2011. We have made it clear to the farming community that we want to check the performance of the system and the so-called cost efficiencies that were supposed to occur as part of the reform process. I do not shy away from the fact that farmers in some parts of the State support the existence of Livestock Health and Pest Authorities, given their work. However, some farmers oppose them outright. Farmers have held meetings in the Monaro electorate sending the message to government that they do not want these authorities, especially given that they do not exist in other jurisdictions. Many farmers question the value they derive from their rates. Many small landholders, particularly in coastal areas, feel somewhat disenfranchised by the authorities, questioning what they receive for their hard-earned dollars that are spent through the levies.

One coastal landholder who visited me three weeks ago questioned the value of the livestock health and pest authorities and rates, given that she does not carry any livestock on her property. Although I acknowledge the contribution to be made in protecting the overall agricultural sanctity of the district in relation to weeds, feral animals and the health of livestock, it is another cost for farmers, which can be an additional burden. Although the Opposition welcomes greater ministerial approval, it should not necessarily lead to the types of rate increases we have seen this year. It is only fair that the increases are capped in line with the consumer price increase because this will keep in check the growth of bureaucracy and red tape. For that reason the Opposition will continue to lobby the Government in the lead-up to 2011. It is disappointing that the Minister for Emergency Services has not seen fit to make a contribution to the debate, given that he spent much of his time saying one thing in his electorate and saying something different in this place in supporting the Government legislation.

I have previously placed on record that there is some merit to debating the functions to be provided by government agencies. Farmers in the south-east in particular have expressed concern about the authorities. I acknowledge that they play an important role, but I reiterate that many landholders question what they receive for their rates. The Labor Party has failed to assure them of the benefits to be derived. The Opposition will not obstruct the passage of the bill through this House. We acknowledge that the Hon. Duncan Gay has done a fantastic job in obtaining signatures for petitions and putting pressure on the Government to introduce the amendment to the amendment bill. He has achieved some changes through the political pressure he has brought to bear. It is a shame that the bill does not go far enough. I look forward to hearing the response from the Government about when the changes to the rating system will be proclaimed so that farmers have greater certainty. The Liberals-Nationals Coalition has made it clear that it will review the system upon attaining government in March 2011.

Mr ANDREW FRASER (Coffs Harbour) [12.14 p.m.]: First, I endorse the comments of my friend and colleague the member for Bega. I will contribute briefly to debate on the Rural Lands Protection Amendment Bill 2009 as I had carriage of the earlier legislation. I particularly endorse the comments of the member for Bega about the Minister for Emergency Services and his two-faced attitude to his electorate. One cannot be a tiger in one's electorate and a pussycat in Parliament. He has given a demonstration of that on many occasions, including last night in the House.

I welcome the fact that changes can be made within zones in the new areas. Although the Opposition understood and accepted the need for a reduction in the number of rural lands protection boards, we have ended up with too few and the boundaries were somewhat peculiar. For example, there could be a drought in Lismore and a flood in Coffs Harbour in the same district, or vice-versa. The Government should take into account a flat rate and an assessment of the carrying capacity, which should be calculated every time a rate is levied. In 2002

I travelled from Cobar to Nyngan, where properties carried no stock but were still committed to paying rates based on a notional carrying capacity. I have stated previously that in times of drought the notional carrying capacity is zero in most cases.

I endorse the comments of the member for Bega about people not understanding or not wanting to pay rates. No-one wants to pay rates. Like the member for Maitland and his property, the rates on my property have increased significantly in percentage terms but in real terms they are not great. It has little effect on lifestyle properties, where people run just a few head of cattle and do only a small amount of farming. However, it is a comfort for me to know that the Livestock Health and Pest Authorities are there to assist when cattle have three-day sickness, which happens with small properties across the board. The authorities also assist with reducing feral animal numbers and like matters.

Although I accept that the Minister should have some authority, giving him the power to revise all rates is somewhat peculiar. The boards are always independent. They are governed by legislation but run by locals. The Minister can now dictate to a board even though the board may be frugal in its approach, keeping rates low for property owners, especially in times of drought or poor markets. The Minister may disagree with the rate being levied and increase it. The Opposition's amendment would have ensured that any rate increases were in line with the consumer price increase. It is petty politics for the Government to reject the amendment. The Government should admit that the correct approach is to keep rate increases in line with the consumer price index. We tend to get lectures from the Premier and the Treasurer about the Opposition's irresponsibility on fiscal matters. The reality is that the Government has little understanding of the situation facing property owners, especially people with large landholdings west of the Great Divide, and the effects of any rate increase on them, especially in times of drought.

Recently I travelled to Gundagai. While this season has been good down there, the dams are still empty. The rivers do not flow without a release of water. Regional areas face real problems and it is high time a few Labor Ministers got off their backsides, left their ivory towers, went out and got some dust on their boots and talked to the people directly. They would then realise how hard it is to eke out an existence on the land these days. Not only the drought but also the increasing value of the dollar has meant our exports are no longer as attractive, and the farmers are taking hit after hit.

It is petty politics if the Government does not accept that amendment. Why can the Government not admit that it should be in line with the CPI? Like my other colleagues who have spoken in debate on this legislation, I do not oppose it. I implore the Government to re-examine it and to amend it in the New Year to restrict the rise in line with the CPI.

In the interim—between now and February—the Government should go out to these areas when it is going to be hot and a lot of flies will be around to have a yarn with these farmers and landholders to see how tough they are doing it and to get an understanding of things like fixed water charges, which the Government has refused to waive, and rural land protection board rates that have a daily impact on their lives. In some cases the payment of these charges and rates determines whether farmers can put bread and butter on the table. About two years ago when I was in Deniliquin a farmer told me that when he goes into town to pick up mail and do other things he no longer takes his children into town with him. Why? Because they may want an ice cream, sweets or a cold drink and he cannot afford to buy them. That is the way of regional and rural New South Wales.

I will diverge slightly and refer to a decision yesterday that will have a severe effect on red gum areas. In his speech to the Labor conference this year, the Premier gave a clear indication that he wants to shut down the red gum industry, which is the only industry that is keeping those communities alive. Farmers are in a mess because of the drought and yet, as I understand it, a local court decision validates a protest by Carmel Flint who went into the area, and was arrested and charged. The court threw out the charge on the basis that the logging, which was signed off by the National Parks and Wildlife Service, was an illegal operation. The area is a real mess when you add to that all the other bits and pieces that impact on these communities that are destined to die because of recent Government decisions and decisions made over the past 14½ years.

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [12.22 p.m.], in reply: I thank members representing the electorates of Murray-Darling, Bathurst, Tweed, Maitland, Bega and Coffs Harbour for their contributions to the debate. The Rural Lands Protection Amendment Bill 2009 will make necessary changes to the Livestock Health and Pest Authority system. The bill will build on the ongoing changes to the system as a result of significant reforms passed by this Parliament late last year. Both these sets of amendments improve the long-term viability and relevance of the system. These changes will benefit ratepayers and rural communities throughout New South Wales by improving the efficiency and effectiveness of the rating system. The amendments will also ensure that there will not be a repeat of the rates hikes experienced by some ratepayers this year.

The Minister for Primary Industries made a commitment in the Legislative Council that he would not approve increases in general and animal health rates that mean the increase in revenue collected by an individual authority exceeds the consumer price index [CPI]. In addition, he will not approve increases in excess of 10 per cent of any of the components of general and animal health rates. This is great news for ratepayers. This addresses concerns raised by the member for Murray-Darling about future rate increases. In relation to points raised by the member for Murray-Darling that a one-size-fits-all approach does not fit, this bill allows authorities to apply general, animal health and special purpose rates differentially across the previous districts or other zones across the new district so that ratepayers can transition gradually to new rate levels.

In response to comments made about efficiencies, the reforms and the administrative changes currently being implemented by the State Management Council are expected to save the Livestock Health and Pest Authority system approximately $6.1 million per annum. This is approximately 14 per cent of total expenditure for the system in 2007-08. The net savings from the centralisation of administrative systems alone is estimated to be approximately $1.14 million per annum. These savings will translate into provision of better services for ratepayers and landholders in rural New South Wales. In relation to issues raised by the member for Tweed with respect to the defeat of proposed amendments in the Legislative Council, the Minister has committed to a more workable alternative. He has committed to the limits on increases, which I have already mentioned, that will be much more practical to implement while achieving an outcome similar to the intent of the amendments.

In relation to the point raised by the member for Bega about the commencement of per hectare rating, the Premier has previously stated it will not be before 2012. The Government will not commence per hectare rating until the reforms are bedded down and there can be a smooth transition to the new rates, which this bill provides for. The Opposition has a smorgasbord of positions on this issue. First, it states that the boards are doing a great job but do not have sufficient resources. Then the Opposition says other government agencies should do the work of the boards even though they do a good job. Next the Opposition wants the Government to limit funding to these bodies, even though it says the boards need more resources. Finally the Opposition wants more reviews of the system—reviews that have already been done—when they already support the outcomes of those reviews that have been completed. No more reviews are needed!

Landholders do not want more reviews either. It is obvious that members of the Opposition are in training for the men's gymnastic team for the Olympics! We are here to govern, not campaign. The bill is a responsible response to the issues. This is necessary and timely legislation. The bill will stop excessive rate increases in the future and provide for a smooth transition to a more equitable and easier-to-understand rating system. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

SAVE THE GRAYTHWAITE ESTATE BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

CRIMES AMENDMENT (FRAUD, IDENTITY AND FORGERY OFFENCES) BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [12.28 p.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

The Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009 was introduced in the Legislative Council on 12 November 2009 and is in the same form. The second reading speech appears at pages 61 to 63 of the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG SMITH (Epping) [12.30 p.m.]: I lead for the Liberals-Nationals on the Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009. The stated purpose of the bill is to amend the Crimes Act 1900 to reform and modernise the law relating to fraud and forgery offences and to create new offences relating to identity crime. The proposed offences were the subject of a consultation paper released by the Criminal Law Review Division of the Department of Justice and Attorney General in July 2009. The bill draws on provisions in the Final Report on Identity Crime released in March 2008 by the Model Criminal Law Officers Committee of the Standing Committee of Attorneys-General [SCAG]; the Final Report on Theft, Fraud, Bribery and Related Offences released in December 1995 by the predecessor Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General; the final report of that committee on credit card skimming offences released in February 2006; and the provisions of the Criminal Code Act 1995 of the Commonwealth that were also drawn from those reports. The bill also makes related amendments to the Criminal Procedure Act 1986.

The bill creates three new identity crime offences: trafficking in—that is, selling or using—identification information, which is punishable by up to 10 years imprisonment; possession of identification information with intent to commit a crime, which is punishable by seven years imprisonment; and possession of equipment for committing identification crime such as card skimmers, which is punishable by three years imprisonment. The provisions covering those offences are set out in proposed sections 192J, 192K and 192L respectively. The Premier has stated that these new laws are to fight the billion-dollar identity theft syndicates ripping off New South Wales families through card fraud and internet scams. The bill specifically targets the use of devices to skim personal details from credit or debit cards, devices that are sometimes attached to automatic teller machines or EFTPOS facilities. I note that in a news release from the Premier dated Wednesday 11 November 2009 entitled "New laws target $1 billion identity crime Industry" the following is stated:

> The Australian Bureau of Statistics (ABS) last year found 450,000 Australians lost a combined $997 million to personal fraud in the previous year.

The press release also stated:

> The ABS found that almost 6 million people are exposed to scams and frauds during any given year, with over 800,000 falling victim in some way.

However, the Australian Bureau of Statistics last year actually stated:

> A total of 806,000 Australians aged 15 years and over were victims of at least one incidence of personal fraud in the 12 months prior to interview.

The Australian Bureau of Statistics report also found that 453,100 Australians lost a combined $977 million to personal fraud in the previous year. I now address the bill in detail. Section 4B is amended to define the term "dishonest" for the purposes of fraud, forgery and related offences. The mental element of dishonesty in those offences means "dishonest" according to the standards of ordinary people and known by the defendant to be dishonest according to the standards of ordinary people. In other words, it is a mixed subjective/objective test. In a prosecution for an offence, dishonesty is a matter for the jury, or for the judge or magistrate if the offence is tried summarily, that is without a jury. This definition was recommended by the Model Criminal Code Officers Committee and adopted in the Criminal Code Act 1995 of the Commonwealth. It follows the decisions of the House of Lords in Feely and Ghosh, and is supported in the High Court case of *Peters v The Queen*.

Proposed section 10F provides that the necessary geographical nexus exists between New South Wales and an offence of larceny or fraud, or a related fraud offence, to enable a prosecution in New South Wales if the offence is committed by a public official and involves public money of the State or property held by the public official for or on behalf of the State of New South Wales, even if the offence is committed outside New South Wales. With regard to fraud and related offences, part 4AA is inserted into the Act and replaces existing provisions of the principal Act omitted by schedule 2. Proposed sections 192B to 192D are definition sections. Proposed section 192B refines the definition of "deception" in connection with the offence of fraud so that it means any deception, by words or other conduct, as to fact or as to law, including:

(a) a deception as to the intentions of the person using the deception or any other person, or

(b) conduct by a person that causes a computer, a machine or any electronic device to make a response that the person is not authorised to cause it to make.

The deception must be intentional or reckless for a person to commit an offence by a deception. Proposed section 192C provides that a person obtains property if:

(a) the person obtains ownership, possession or control of the property for himself or herself or for another person, or

(b) the person enables ownership, possession or control of the property to be retained by himself or herself or by another person, or

(c) the person induces a third person to do something that results in the person or another person obtaining or retaining ownership, possession or control of the property.

A person must intend to permanently deprive the other person of the property, and borrowing property may amount to obtaining property if the person's intention is to treat the thing as his or her own to dispose of regardless of the other person's rights. Proposed section 192D provides:

… obtain a financial advantage includes:

(a) obtain a financial advantage for oneself or for another person, and

(b) induce a third person to do something that results in oneself or another person obtaining a financial advantage, and

(c) keep a financial advantage that one has,

whether the financial advantage is permanent or temporary.

The proposed section also provides:

… cause a financial disadvantage means:

(a) cause a financial disadvantage to another person, or

(b) induce a third person to do something that results in another person suffering a financial disadvantage,

whether the financial disadvantage is permanent or temporary.

Proposed section 192E deals with the offence of fraud. It will be an offence, punishable by a maximum term of imprisonment of 10 years, for a person, by any deception, to dishonestly obtain property belonging to another or to obtain any financial advantage or cause any financial disadvantage. That is a significant increase on the current penalty imposed for obtaining benefit by deception, which I think is five years. Proposed section 192F provides for the offence of "intention to defraud by destroying or concealing accounting records". It will be an offence punishable by a maximum term of imprisonment of five years to dishonestly destroy or conceal any accounting record with the intention of obtaining property belonging to another or obtaining a financial advantage or causing a financial disadvantage.

Proposed section 192G provides for the offence of "intention to defraud by false or misleading statement". It will be an offence, punishable by a maximum term of imprisonment of five years, to dishonestly make or publish, or concur in making or publishing, any statement that is false or misleading in a material particular with the intention of obtaining property belonging to another or obtaining a financial advantage or causing a financial disadvantage. Proposed section 192H provides for the offence of "intention to deceive members or creditors by false or misleading statement of officer or organisation". It will be an offence, punishable by a maximum term of imprisonment of seven years, for an officer of an organisation, with the intention of deceiving members or creditors of the organisation about its affairs, to dishonestly make or publish, or to concur in making or publishing of a statement that is knowingly false or misleading in a material particular.

Schedule 1 [3] inserts part 4AB into the principal Act and creates new offences relating to identity crime. Proposed section 192I contains definitions used in the part. Identification information means information relating to a person, whether living or dead, real or fictitious, or an individual or a body corporate, that is capable of being used to identify or purportedly identify the person. One would assume that that would catch the "Day of the Jackal" type offences, where someone finds the name of a deceased young person, acquires their birth certificate and uses it to create a new identity. That was practised by the Mr Asia syndicate, recently portrayed in the *Underbelly 2* television program. Proposed section 192J, which creates the offence of dealing with identification information, provides:

(a) it will be an offence, punishable by a maximum of 10 years imprisonment, for a person to deal in identification information with the intention of committing, or facilitating the commission of an indictable offence.

That is when someone sells a card that states the purchaser is at least 18 years old, so the person can gain admission to a pub. I am told that it is a fairly common offence, but I do not know that getting into a pub is an indictable offence, but it is a serious offence. Proposed section 192K, which creates the offence of possession of identification information, states:

> (b) It will be an offence, punishable by a maximum of seven years imprisonment, for a person to possess identification information with the intention of committing, or facilitating the commission of, an indictable offence.

Proposed section 192L, which creates the offence of possession of equipment to make identification documents or things, provides:

> (c) It will be an offence, punishable by a maximum of three years imprisonment, for a person to possess any equipment, material or other thing that is capable of being used to make a document or other thing containing identification information if the person intends that the document or thing will be used to commit, or facilitate the commission of, an indictable offence.

Proposed section 192M contains miscellaneous provisions, including subsection (3), which provide:

> This part applies to a person who intends to commit an indictable offence even if committing the offence concerned is impossible or the offence concerned is to be committed at a later time.

That goes back to the Stonehouse cases, and others of its progeny, involving questions of whether one is attempting to commit the impossible. Forgery offences are set out in part 5 and replace outdated provisions with a modernised and simplified set of provisions relating to forgery offences. Proposed section 250 sets out the meaning of a false document. Proposed section 251 makes it clear that a reference to inducing a person to accept a false document as genuine includes a reference to causing a machine to respond to the document as if it were a genuine document. The proposed section provides also that if it is necessary to prove intent to induce some person to accept a false document as genuine, it is not necessary to prove the accused intended to induce a particular person.

Proposed section 252 provides that fraud offences apply to obtaining property, financial advantage or causing financial disadvantage. Proposed section 253 applies to making a false document. It is an offence, punishable by up to 10 years imprisonment, for a person to make a false document with the intention of using it to induce some person to accept it as genuine, and because of its being accepted as genuine, to obtain another person's property, obtain any financial advantage or cause any financial disadvantage, or influence the exercise of a public duty. The offence of signing a false name on a false cheque, and receiving money in return for that forged cheque would be picked up by that provision.

Proposed section 254 applies to the offence of using a false document. It will be an offence, punishable by up to 10 years imprisonment, for a person to use a false document, knowing that it is false, with the intention of inducing some person to accept it as genuine, and because of its being accepted as genuine, to obtain another person's property, to obtain any financial advantage or cause any financial disadvantage or influence the exercise of a public duty. Proposed section 255 applies to possessing a false document. It will be an offence, punishable by up to 10 years imprisonment, for a person to have in his or her possession a false document, knowing that it is false, with the intention of using it to induce some person to accept it as genuine, and because of its being accepted as genuine, to obtain another person's property, obtain any financial advantage or cause any financial disadvantage or influence the exercise of a public duty.

Proposed section 256 applies to the making or possession of equipment for making false documents. It will be an offence, punishable by up to 10 years imprisonment, for a person to make, or have in his or her possession, any equipment, material, or other thing, designed or adapted for the making of a false document, knowing that it is so designed or adapted and with the intention of using it to commit the offence of forgery. It will be an offence, punishable by up to three years imprisonment, for a person to make or possess, without reasonable excuse, any equipment, material or other thing designed or adapted for the making of a false document, knowing that it is so designed or adapted. Proposed section 256 provides that it will be an offence, punishable by up to three years imprisonment, for a person to possess any equipment, material or other thing that is capable of being used to make a false document, with the intention that the person or another person will use the equipment, material or other thing to commit the offence of forgery.

Schedule 3 [2] amends section 309A of the Criminal Procedure Act 1986 to enable a victim of an identity offence to obtain a certificate from the Local Court that such an offence has been committed to assist with problems that the offence has caused in relation to the victim's personal or business affairs. Finally, with certain specified exceptions, schedules 3 [3] to 3 [6] to the bill provide that fraud, identity and forgery offences

under the Crimes Act 1900 are triable summarily unless the prosecutor or the person charged elects otherwise. There are a lot of good provisions in the bill. Identity theft is one of the most pressing issues facing the community today. The bill will be a step forward in dealing with the trafficking in—that is selling or using—identification, the possession of identification information with intent to commit a crime and the possession of equipment for committing identification crime.

These amendments should ensure that police have adequate powers to combat identity crime and will allow them to crack down on bank card skimming. It is convenient for people to use plastic cards to obtain credit or to withdraw money from their accounts, and they often safeguard people from being hit on the head and robbed as, generally speaking, people with plastic cards do not carry a lot of money around with them in their wallet. The credit card has been a great reform, but, like most other reforms, it has its problems. Also, these amendments are aimed at stopping the offence of selling personal information on the black market. The amendments will use new technology to combat the more technologically sophisticated fraud schemes that current legislation has not been able to address. There are no significant arguments against the bill. Various agencies were invited to comment on the bill. The Bar Association responded and said that it does not oppose the bill. Accordingly, the Liberals-Nationals Coalition does not oppose it either.

Mr FRANK TERENZINI (Maitland) [12.48 p.m.]: I support the Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009, which amends the Crimes Act 1900 to reform and modernise the law relating to fraud and forgery, and to create new identity crime offences. The member for Epping comprehensively set out a number of proposed sections, how they will change current legislation and the emphasis that is placed on the use of modern equipment. The amendments take into account the use modern electronic technology. That is an indication that the aim of the bill is to modernise the legislation, to take into account the increased use of technology in the commission of fraud and forgery offences, and to make sure that penalties in the legislation reflect the seriousness of offences relating to identity theft.

Offences covered by the new fraud provisions include that of dishonestly destroying or concealing any accounting record with the intention of obtaining property, which carries a penalty of five years; and that of an officer of an organisation, intending to deceive members or creditors, dishonestly making, publishing or concurring in any statement that is false or misleading in a material way, for which a penalty of seven years is provided. Some examples of new identity offences that the bill will introduce include that of dealing in identification information with the intention of committing or of facilitating the commission of an indictable offence, which carries a penalty of 10 years; possessing identification information with the intention of committing or of facilitating the commission of an indictable offence, which carries a penalty of seven years; and possessing any equipment, material or other thing for committing identification crime with intent to commit or to facilitate the commission of an indictable offence, which carries a penalty of three years. These new offences are very important.

Identity crime is on the rise. As has been said, the Australian Institute of Criminology—and these figures cannot be gainsaid because they are very important—concluded that consumer fraud has cost the Australian community around $1 billion. The Australian Bureau of Statistics determined that 450,000 people lost a combined $997 million in 2007, and almost six million people are exposed to scams or fraud during any given year, with more than 800,000 becoming victims in some way. The final report on identity crime of the Model Criminal Law Officers Committee concluded that identity crime was on the rise and likely to continue to cost the community more money. It reached that conclusion because information flows faster than ever before; because of the increased use of remote communications to transact at a distance instead of person-to-person transactions; based on how easy it is to forge documents using new technology; and the fact that so much data is collected and shared about individuals both by the private and public sectors, which makes it easier to access personal information.

In addition to the traditional method of mail theft, criminals now hack into computer databases and steal information, use small devices to skim data from cards, send fake emails soliciting information, et cetera. Aside from being easy to commit, its consequences are arguably more serious than ever before. It is not just about the property that is involved; it undermines trust in basic institutions of social life and has the potential to very seriously invade people's privacy. These sorts of crimes often result from people stealing, and then altering, someone's personal information such as bank passwords and addresses. It can have a serious effect on credit history, for example, and that can be difficult to rectify.

The bill provides for a victim certificate to be made available by a court to someone who, on the balance of probabilities, is believed to have been the victim of identity crime. It is important, in the Government's view, that a person does not have to wait for a conviction to get a certificate that will help them

get his or her life back in order. When someone steals your identity and accesses your bank account it can be difficult to re-establish yourself, to restore your credit rating, to have stolen money returned, to get new credit cards and passwords, or to get more credit on your mobile phone. It can be a difficult and time-consuming process for victims who may be subjected to suspicion from banks, credit companies and telephone companies. Victims need all the support they can get in such a situation. A victim certificate will assist them to get their affairs back in order and is an important part of the bill.

The bill revamps the fraud and forgery provisions in the Crimes Act and introduces new identity crime offences. The current offences are overly complex and rely on outdated categories. The language is archaic and very difficult for anyone to understand. There are a huge number of specific offences, and this can leave gaps. The bill simplifies and modernises the fraud and forgery provisions of the Crimes Act. It deletes over 40 specific and archaic offences and replaces them with broad, modern offences that will capture the relevant criminal conduct. These offences use language that is technologically neutral, so there is no doubt that they will capture criminal conduct that uses technology to commit an offence. In this regard, the offences introduced by this bill are supported by the computer crime offences in part 6 of the Crimes Act.

Importantly, the offences relating to equipment used to commit identity crime and forgery now reflect the fact that you do not have to specially design or adapt equipment to commit a crime; you can go to the local shop and purchase what you need to commit such crime. We all know that these offences are carried out with varying degrees of precision and professionalism. However, it has become much easier for the amateur, let alone the professional, to take part in these activities, which destroy lives. Any equipment or material that can be used to commit identity crime or forgery, or that is possessed with the intention of committing such a crime, is caught by the new offences, including scanners, printers, card readers, et cetera. This amendment reflects the reality of modern crime and is an important update to the law.

When I was a practising lawyer the offence of make and use false instrument involved a person putting someone else's signature on a lease or contract. It was a basic crime whereby a document was created with the intention to deceive. From memory, section 300 of the Crimes Act dealt with the basic offences of make and use false instrument, section 178BA dealt with obtaining money by deception, and section 178BB dealt with obtaining money by false and misleading statements. All those sections of the Crimes Act, which we lawyers and former Crown Prosecutors are familiar with, covered the traditional methods of forging a document or using a document in such a way as to obtain an advantage. Today it is a completely different story.

I can say without a doubt that every time I use my card for an EFTPOS transaction in a store and I enter my PIN number I feel as if someone is over the top of me, watching what I am doing. And that is what happens. If someone films that transaction, or is standing behind you watching as you enter your PIN number, your PIN number can be ascertained. The new technology makes life so much more convenient but it also exposes us to the evil intentions of others out there in the community. Every time we swipe our card using an automatic teller machine, or we enter our PIN number into a machine, we are exposed to crime that can be easily committed by people with the relevant technological knowledge.

How many times have we seen on a current affairs program that people have received a bill in the mail or correspondence suggesting that they owe money—for example, a bank card transaction—for a transaction they did not make? Someone else made that transaction pretending to be them. This bill is about making sure that people who commit such offences are properly punished. The days of disposing of letters, bills and envelopes containing personal details in whiz bins are long gone. I suspect that no-one in this Chamber would do that any longer; we would all use shredders. That is a classic example of how easy it is for someone to obtain details of your identity. All someone has to do is remove an envelope with your name and address on it from your whiz bin and then go off and use that information to make transactions. We need to battle those sorts of forces.

The Parliament must do all it can to ensure that such criminal activity is caught, and one way of doing that is to modernise the provisions of the Crimes Act. There are no guarantees that these proposed sections, or any other amendment, will make a major dent in the incidence of such crime, but we must do all we can to enact legislation that covers this criminal activity. It needs to be made clear to the courts that the Parliament regards these matters very seriously. One could imagine—quite apart from the initial surprise upon learning that someone has used your identity—the anguish, angst and heartache one experiences trying to solve these problems to get one's affairs back in order. That is why the victim's certificate is such a good idea. Victims will no longer have to wait for an offender to be convicted; the issue of a certificate will allow them to get their affairs in order more quickly.

I especially welcome that. These are very serious crimes. People commit them very easily using technology. This bill is part of the ongoing process by this Government to address modern concerns. I very

much appreciate the work of all those people behind the scenes in the Standing Committee of Attorneys-General who have done the research to provide us with this information. Hopefully, if members of the community are aware of these offences it will deter them from embarking on this insidious criminal activity of the modern age. I commend the bill to the House.

Mr JOHN TURNER (Myall Lakes) [12.59 p.m.]: I join the debate on the Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009. The shadow Minister has already noted that the Opposition will not oppose this bill. We hear daily the stories of fraud and forgery offences of the new wave, credit card fraud. The, shall we say, "old" traditional frauds and forgeries enumerated by the member for Maitland usually involve pen and paper, but as we move into the technological age and the ever-increasing dispensation with pen and paper new and innovative methods of fraud arise. Therefore, there is a need to reform and modernise the law relating to fraud and forgery offences and to create new offences relating to identity crime in an attempt to fight the billion-dollar identity theft industry.

The bill draws on provisions in the Final Report on Identity Crime released in March 2008 by the Model Criminal Law Officers Committee of the Standing Committee of Attorneys-General; the Final Report on Theft, Fraud, Bribery and Related Offences released in December 1995 by the predecessor Model Criminal Code Officers Committee of SCAG; and that committee's Final Report on Credit Card Skimming Offences released in February 2006. Additionally it draws on the provisions of the Criminal Code Act 1995 of the Commonwealth, which were also drawn from those reports.

The bill also makes related amendments to the Criminal Procedure Act 1986. This bill also creates three new identity crime offences: Trafficking in—selling or using—identification information, punishable by 10 years imprisonment under proposed section 192J; possession of identification information with intent to commit a crime, punishable by 7 years imprisonment under proposed section 192K; and possession of equipment for committing identification crime, such as card skimmers, punishable by 3 years imprisonment under proposed section 192L. The jury is out as to just how many people and how much money are involved in credit card and identity theft fraud in Australia. The Australian Bureau of Statistics in a press release dated 29 June 2008 noted that nearly $1 billion was lost by Australians to personal fraud. The press release said:

> Nearly one billion dollars ($980 million) was lost as a result of personal fraud according to the first National Personal Fraud Survey, by the Australian Bureau of Statistics (ABS) released today.
>
> The survey, conducted in 2007, asked people aged 15 and over about their experiences relating to personal fraud incidents in the preceding 12 months. The survey found that 453,100 Australians lost on average $2,160 as a result of personal fraud.
>
> Other results from the survey include:
>
> - A total of 806,000 Australians reported they were victims of at least one incident of personal fraud in the previous 12 months. This represented 5% of the population aged 15 years and over.
> - Half a million Australians experienced a form of identity fraud. The majority 383,300 (77%) were victims of credit or bank card fraud; identity theft accounted for the balance.
> - Nearly 6 million Australians (36%) were exposed to a range of selected scams; that is they received, viewed and/or read an unsolicited invitation, request or notification designed to obtain personal information or money or obtain a financial benefit by deceptive means.
> - 329,000 people fell victim to at least one type of scam by responding to or engaging with the unsolicited offer. The three main categories of selected scams were: lotteries (84,100 victims), pyramid schemes (70,900) and phishing and related scams (57,800).

Of the victims who lost money to personal frauds, the median financial loss was $450 per person whilst the mean loss was $2,150. My wife would have possibly been one of those statistics, but her potential loss was about $2,600. The fraud occurred following our visit to India. We purchased some items using my wife's credit card. The transaction was conducted on a carbon copy credit card transaction form. Some months later my wife received a letter from Westpac. I might add that the letter was on a photocopied letterhead, which as a separate issue raised concerns with us to the extent that I told her to ring our bank and verify the letter was legitimate. On attending the bank she was told she had spent $2,600 on some jewellery in India about six weeks after we had left. We were able to verify it was a fraud and no loss occurred, but we were lucky. The Australian Bureau of Statistics in a report of a personal fraud survey conducted in 2007 said:

> Personal fraud has been recognised as a crime type that is a growing threat to the community, as a result of the rapid expansion and availability of internet technology and the increase in electronic storage, transmission and sharing of data. Due to the wide range of commercial and government agencies with a remit to respond to various types of personal frauds and scams, it can be difficult to understand the prevalence of such incidents in the general community using available recorded crime statistics or other administrative data sources.

It went on to say fraud is by its very nature a crime aimed at gaining advantage over a victim by means of a deception, whether financial or otherwise. As these fraudulent activities can manifest in a range of guises, such incidents can be difficult to identify. There are many different types of personal frauds. The report said these include:

> Credit or bank card - Involves the unauthorised use of a credit or bank card.
>
> Identity theft—Involves the theft and fraudulent use of personal details or documents such as a driver's licence, tax file number or passport to conduct unauthorised transactions including conducting business or opening accounts in another person's name or otherwise using a person's identity without permission.
>
> Phishing and related scams—Scams which involve a fraudulent request, purporting to be from a business or bank, to confirm a person's bank account or personal details using a range of methods such as by email, landline, mobile telephone, post or in person. Phishing is an attempt to acquire personal information, such as an account number, password, credit card details, etc., usually via email or instant messaging, in which the email purports to be from a legitimate or trustworthy business or bank and directs a person to a hoax website to verify their account details.

A snapshot of victims is given by the Australian Bureau of Statistics, which said that:

> In the twelve months prior to the survey, identity fraud accounted for 3% or nearly half a million (499,500) victims in Australia. Just over half (54%) of these victims were male, while 46% were female.
>
> Of the 499,500 victims of identity fraud, the majority (383,300 or 77%) were a victim of credit or bank card fraud. ... These victims experienced at least one unauthorised, fraudulent transaction using their cards or account details.
>
> Identity theft accounted for 124,000 victims of identity fraud. These victims included those who experienced unauthorised use of their personal details, such as a driver's licence, tax file number, or passport through fraudulent or forged identification documents, or unauthorised appropriation of their identity through any other means to conduct business, open accounts or take out loans illegally in their name.

Clearly, identity theft is one of the more pressing issues facing the community today. This legislation will be a step forward in dealing with the trafficking of identification with the intent to commit a crime. These amendments will give the police more powers to combat identity crime and crack down on bank card skimming and the black market sale of identities.

Mr GEOFF PROVEST (Tweed) [1.08 p.m.]: I will make a brief contribution to the Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009. As we heard from the shadow Attorney General, who went to great lengths to discuss the various components of the bill, the legislation is the result of research and consultation and three reports produced by the Model Criminal Law Officers Committee of the Standing Committee of Attorneys-General on theft and fraud, credit card skimming and identity crime. The bill also relates to the Commonwealth Crimes Act.

Previous speakers have referred to a number of issues. In my brief contribution I will refer to some pertinent issues relating to identity fraud. For 20-odd years I was a licensee. Back in the early days the only type of identity fraud was photocopied birth certificates and licences. In recent times my local area command has shown me fraudulent licences and identification cards. With the machinery that is available now, fraudulent licences contain photographs and it is very difficult to distinguish them from the real thing. Currently the annual event of schoolies week is being held in my electorate, with 25,000 school students from all around the nation descending on our local area. The licensed venues experience great difficulty distinguishing between real licences or identification cards and fraudulent ones. Given the identification checks required by banks and other financial institutions—while these amendments, which I do not oppose, go a significant way—more needs to be done.

The major four banks—ANZ, National, Commonwealth and Westpac—are lagging behind the times. I have read recent international reports about advancements in ATM technology. The advanced ATMs have an improved scanning facility and are virtually tamper proof. As we have seen from the media, in Sydney and in areas up north scanners have been placed illegally in ATMs. Although we can legislate penalties, the banks have to get their act into gear and introduce advanced technology. Many credit cards now have microchips embedded in them. The member for Myall Lakes spoke about fraudulent activities that occurred when he was in India. When I was on a recent trip to India credit card purchases could not be signed for; it was necessary to have a four-digit pin number because of the high level of fraud. I encourage everyone to have a credit card pin number.

Previous members referred to fraudulent signatures on documents. Recent media reports have indicated that the cheque is on the way out. We will no longer be able to use cheques because they are considered

outdated. The banks have a great deal to answer for. The general public pays an enormous amount in bank fees. If the four major banks withdraw the use of cheques they should invest some of their profits into fraud security measures. I hope they will do that voluntarily but, if not, they should be forced to do so. I know of two cases in which people have been defrauded as a result of skimmers in automated teller machines. In one case at Randwick the young gentleman involved, even though he had sufficient documents proving it was a fraudulent activity, had to wait up to 12 months for a refund of his money. That caused him an enormous amount of financial stress and hardship.

The bank would not have missed the money. It should have taken prompt action. The banks must be held more accountable. In my electorate a large proportion of the population is aged over 65: we rank second in the State in relation to the number of people over 65 years. The modern technology—such as ATMs and Internet banking—is confusing to many of them. The Office of Fair Trading continually publishes warnings about scams. I would like more emphasis placed on educating our seniors to inform them about these scams.

Mr Barry Collier: You can do that as the local member.

Mr GEOFF PROVEST: I regularly address community meetings, as the member for Miranda points out. But the scams come quick and fast. As soon as one scam is blocked another scam or new technique is used to get around it. The Government has redefined the legislation to catch up to the twenty-first century. I do not oppose it, but more work needs to be done. As the member for Myall Lakes pointed out, fraud is costing the Australian economy close to $1 billion a year. In many cases these fraudulent activities occur against the more vulnerable people in our communities—seniors, pensioners and people on fixed incomes. They are concerned about using ATMs. A number of senior citizens in my area do not have an ATM card and they find it difficult to navigate the new technologies. The Office of Fair Trading has to do more in this area.

This legislation draws on provisions in the final reports of committees of the Standing Committee of Attorneys-General. The Government must include the financial institutions in discussions. As recent international reports show, advanced technology is available. I will take a punt and say that the banks are resistant to introducing such technology because it would cost them money. As we saw yesterday, the banks have no qualms about increasing interest rates. They could reinvest some of their profits into looking after their customers. This legislation provides measures to protect customers using ATMs and when undertaking other financial transactions. The banks should act in partnership with the Government. It is about time they were held more accountable, whether voluntarily or through legislation, in protecting their customers. In this way we will be able to provide further protection for the people of New South Wales. I am 100 per cent for the Tweed.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [1.17 p.m.], in reply: I thank the members representing the electorates of Epping, Maitland, Myall Lakes and Tweed for their contributions to the debate. I note that the Opposition does not oppose the bill. The member for Tweed raised an issue in relation to banks. He should take that matter up with the banks and join his pensioners in a protest. The main purpose of the Crimes Amendment (Fraud, Identity and Forgery Offences) Bill 2009 is to modernise and simplify the fraud and forgery provisions of the Crimes Act and to increase the penalties to reflect the criminality involved. The bill also introduces specific offences to address the growing problem of identity crime. As the Government speakers in support noted, identity crime covers a wide range of conduct, from opportunistic crime to very organised crime using sophisticated technology. It involves a significant invasion of personal life and undermines our trust in society. As the speakers in support have noted, it is a serious problem that warrants a strong response. That is exactly what this bill does.

In addition to introducing identify crime offences, the bill effects significant reforms to the law of fraud and forgery. Myriad specific offences in these areas are replaced with broad offences that will remain relevant as the nature of these crimes changes. The bill will also insert a definition of "dishonest" into the Act—an important and significant change. For one thing, such a definition is contained in the Commonwealth's Criminal Code Act, which will mean that when both Commonwealth and State offences are tried on the same indictment the elements of the offences that the jury will have to consider will be the same. Additionally, it provides some direction to a jury in considering whether conduct was dishonest. I refer, next, to proposed section 309A, which relates to certificates that may be issued to victims of identity crime. These victim certificate provisions are based on the Model Criminal Code. Proposed section 309A (1) states:

> The Local Court may issue a victims certificate ... if the court is satisfied, on the balance of probabilities, that:
>
> (a) an identity offence has been committed, and
>
> (b) the certificate may assist with problems the offence has caused in relation to the victim's personal business affairs.

That extremely important provision will assist victims of identity crime to get their lives back together as soon as possible without the offender having been brought to justice, the offender having been tried and found guilty, or the offender having been located. The certificate that is given by the court will identify the victim of the offence and describe the manner in which the identification information relating to the victim was used to commit the offence. It might also contain such other information as the Local Court considers appropriate. It will not identify the perpetrator of the alleged offence, nor will it be admissible in criminal proceedings in relation to the offence. That is a matter for the court and it has to be proved beyond reasonable doubt. Proposed section 309A (7) states:

> The Local Court may issue a certificate under this section whether or not:
>
> (a) the perpetrator of the offence is identifiable, or
>
> (b) any criminal proceedings have been or can be taken against a person in respect of the offence, or are pending.

Significantly, the Supreme Court or the District Court may also exercise the powers conferred on the Local Court during any proceedings before that court for the alleged identity offence concerned, or on the disposal of any proceedings before the court. As I have indicated, the certificate will assist victims of crime to get their lives back together. While organisations are currently under no obligation to accept the certificate, they would be aware what it means—that is, on the balance of probabilities, the Local Court believes that the person is a victim of crime. The Department of Justice and the Attorney General will consult with peak bodies to establish how to communicate certificates and what those certificates will mean to relevant institutions, including banks. This bill introduces significant and timely changes to the law. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) AMENDMENT BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [1.22 p.m.], on behalf of Ms Carmel Tebbutt: I move:

> That this bill be now agreed to in principle.

This bill was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 49 to 50 in the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG APLIN (Albury) [1.23 p.m.]: I lead for the Opposition in debate on the Personal Property Securities (Commonwealth Powers) Amendment Bill 2009. When soul singer Gladys Knight sang, "I got a licence to kill" she was merely facilitating the opening sequence of a tepid Timothy Dalton James Bond movie of the same name. She sang that she was aiming "straight for the heart". Billy Idol, not by anyone's definition a soul singer and far less romantic than Gladys Knight, turned the lyric line his way. He sang that he had a "licence to thrill". He was merely being functional. The Personal Property Securities (Commonwealth Powers) Amendment Bill 2009 may not be thrilling but it is a functional and necessary part of a new national scheme involving security taken over certain important licences and other personal property. The Opposition will not oppose this legislation.

This bill amends the recent Personal Property Securities (Commonwealth Powers) Act 2009 to make provision for matters of a savings or transitional nature consequent on the enactment of the proposed Commonwealth Personal Property Securities Bill 2009. It also amends various licensing legislation as a consequence of this shift of control and provides for the repeal of the Registration of Interests in Goods Act 1986 and the Security Interests in Goods Act 2005. Members might remember that in June the Personal Property

Securities (Commonwealth Powers) Act 2009 moved through Parliament with urgency under pressure to keep the momentum and to facilitate business financing. This bill referred certain matters of finance securities and interests to the Parliament of the Commonwealth for the purposes of section 51 (xxxvii) of the Commonwealth Constitution.

The Commonwealth Personal Property Securities Bill 2009, which establishes the national scheme called the PPS scheme, is currently before the Commonwealth Parliament. In New South Wales the Personal Property Securities (Commonwealth Powers) Amendment Bill 2009 applies to various categories of licences, including licences for property, stock and business agents, conveyancers, and valuers, and a motor vehicle repair tradesperson's certificate. These are not transferable and cannot be borrowed by others. It covers personal property, tangible and intangible, that might form security for a loan; for example, vehicles, office furniture, machinery, artworks, stock, trademarks, patents and so on. One of the consequences of the scheme is that the popular and well-known New South Wales Register of Encumbered Vehicles [REVS] will close and the information will transfer to the new national register controlled by the Commonwealth. The same applies to the Security Interests in Goods Register.

The Register of Encumbered Vehicles is a service provided by the Office of Fair Trading. Traders, consumers and finance providers can search the register to determine whether a particular vehicle has become the security for a loan and encumbered as such by finance commitments. The search extends to encumbrances registered not just in New South Wales but also in the Australian Capital Territory, the Northern Territory, Queensland, South Australia and Victoria. It is close to, but not quite, a fully functioning national scheme. A REVS search can also reveal whether the vehicle has been reported to the police as stolen; recorded by the Roads and Traffic Authority [RTA] as deregistered as a result of outstanding fines; recorded by an insurance company as a "written-off" vehicle; or recorded by the Commissioner for Fair Trading as having possible interference with its odometer. Members will agree that these are major consumer and business protections.

REVS is well known in the community and has a long history of success for improving access within the motor vehicle industry in particular. Over the 2006-07 financial year there were 1,637,800 searches of the register. For 2007-08 that number rose to 1,918,481—an increase of 17 per cent—and $9.5 billion worth of finance commitments have been registered. To prove the value of the REVS program I wish to read onto the record a letter from a lady in Kellyville who wrote to me earlier this year and said:

> My son bought a car in 2006 from a private seller in the Kellyville area. My son is only 23. He got a $19,000 loan for this car and the St George bank did the REVS check. The vehicle in question was a 2003 Hilux 4x4 ute.
>
> He drove this car and renewed registration in 2007. The week before Christmas 2008 he received a letter from the RTA and police to say it was a suspect car. The car was presented at the RTA Inspection Station in Penrith and put off the road due to major structural damage. It seems that it had been written off in Qld in 2006.
>
> I want to know who put this car on the road in New South Wales and why it passed a blueslip inspection?
> I want to know why it was ever for sale in NSW?
> I want to know what action has been taken with the persons involved in putting this car on the road?
> I want to know why the RTA have NOT offered my son compensation for their inability to guarantee an already registered car on New South Wales that has passed through their system?
> Can you please ask Parliament, RTA and anyone else WHY my apprentice carpenter son who is 23 years old has a $19000 loan on a undrivable and unfixable car. He is now out of work and unable to apply for work due to this situation. This is fraud and criminal negligence.

I wrote letters to the Roads and Traffic Authority and to the Office of Fair Trading and I received a response from the Minister for Fair Trading referring to the representations concerning a New South Wales REVS check relating to her son's private purchase of a Hilux utility. The Minister wrote:

> I refer to your representations on behalf of Mrs Kerry Wall concerning a New South Wales REVS check in relation to her son's private purchase of a Hilux Utility.
>
> Following receipt of your representations, the Office of Fair Trading was asked to examine the issues raised. Fair Trading apologises for the delay in responding.
>
> The primary function of NSW REVS is to provide information on financial encumbrances over vehicles and boats. Ancillary advice on matters such as stolen vehicle alerts, written-off vehicle details, and fine defaults is also provided. This additional information is downloaded to the REVS register by NSW Police and NSW Roads and Traffic Authority (RTA).
>
> The NSW REVS Register does not have access to all information maintained in other jurisdictions, and, as such, a warning appears both on the REVS web site and the REVS certificate stating that no liability can be accepted for the accuracy of stolen vehicle or written off vehicle information.

> Having said that, the RTA has recognised the need for additional vehicle information and introduced a new service called Vehicle History Check. A consumer can access this service by logging on to the RTA website and paying a fee of $18.00. This service also allows consumers to access the National Exchange of Vehicle and Information Service (NEVDIS). The information provided by the RTA includes whether a vehicle was previously written off interstate and then re-registered in New South Wales or any other State or Territory.
>
> You may be interested to know that the Personal Property and Securities (PPS) legislation which is due in 2010-2011 will provide a national scheme to regulate and register securities over all forms of personal property, and will be supported by a single electronic register.
>
> The PPS register will replace the various State and Territory based registers such as REVS, and will provide national information relating to all vehicle details including stolen, written off and fine defaults.

That proves the need for a bill of this nature. An exception in the bill is made for crop, stock and agricultural goods and licence mortgages, which are currently excluded from the new scheme and will continue to operate in New South Wales as before. I understand that the Government is still looking into this and it will be the subject of further legislation next year. The national Personal Property and Securities scheme was due to commence in May 2010, but, following submissions from business and recommendations from the Senate Legal and Constitutional Affairs Legislation Committee, the Council of Australian Governments has moved the date to May 2011.

Obviously it is an improvement to have a consistent registration scheme for personal securities such as finance over motor vehicles. The scheme removes inconsistencies and uncertainties for businesses operating in more than one State. It should lead to improved freedom of trade and commerce across the nation by letting consumers, businesses and regulators search a truly national register of finance interests secured against chattels and licences, and it should make it easier for businesses to raise finance by way of a loan secured against chattels or licences. At last banks and other financial institutions will have a national register of interests and will be able to make more informed decisions about lending to facilitate business. For these reasons we do not oppose the bill.

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

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

DISTINGUISHED VISITORS

The SPEAKER: I welcome to the gallery Mr Dory Chamoun, a member of the Lebanese Parliament, from Deir el-Qamar in Lebanon, and Mr Joseph Touma, the Australian Commissioner of the Lebanese National Liberal Party. I acknowledge the presence in the gallery of Councillor Nickolas Vivaris, the Mayor of Kogarah Council, and Mr Paul Woods, the General Manager of Kogarah Council, guests of the member for Kogarah. Welcome to the New South Wales Parliament.

REPRESENTATION OF MINISTER ABSENT DURING QUESTIONS

Mr NATHAN REES: I inform the House that in the absence today and tomorrow of the Minister for Commerce, Minister for Tourism, Minister for the Hunter and Minister for Science and Medical Research, who is representing New South Wales at a tourism event overseas, the Minister for Police and Minister for Finance will answer questions on the Minister's behalf.

BUSINESS OF THE HOUSE

Notices of Motions

Government Business Notices of Motions (for Bills) given.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (for Bills) given.

BUSINESS OF THE HOUSE

Routine of Business

[*During the giving of notices of motions to be accorded priority.*]

The SPEAKER: Order! I call the member for Upper Hunter to order. I call the member for Terrigal to order. I call the member for Wakehurst to order. I call the member for Upper Hunter to order for the second time.

QUESTION TIME

[*Question time commenced at 2.22 p.m.*]

RAIL SAFETY

Mr BARRY O'FARRELL: My question without notice is directed to the Premier.

Ms Kristina Keneally: He's over there.

Mr BARRY O'FARRELL: Does the Minister for Planning not care about people losing their lives in rail accidents?

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

Mr BARRY O'FARRELL: Today, exactly 10 years after seven people tragically lost their lives in the Glenbrook rail disaster, will the Premier explain why his Government continues to put passenger safety at risk by not implementing the uniform and integrated radio network to communicate critical safety information across the rail system as recommended by the Glenbrook Special Commission of Inquiry?

Mr NATHAN REES: The final report of the special commission of inquiry into the Waterfall rail accident was released on 17 January 2005. The special commission of inquiry into Waterfall also included the first seven recommendations of the special commission of inquiry into the Glenbrook rail accident. The Glenbrook rail accident occurred on 2 December 1999 at 8.22 a.m. Seven passengers in the front compartment of the first carriage of the interurban train were killed and 51 passengers were transported to hospital with injuries. The Glenbrook rail accident was the most serious rail accident in New South Wales since 6 May 1990, when an innerurban train collided with a special steam train on the Cowan embankment near the Hawkesbury River north of Sydney, in which six persons were killed and 100 passengers injured.

On 9 December 1999 Mr Peter McInerney was appointed as commissioner under the Special Commissions of Inquiry Act 1983 to inquire into the Glenbrook accident. Of the 95 recommendations for reform the commissioner made after Glenbrook the Government rejected only two. These two were for the rail safety regulator to approve appointments to accredited rail organisations, including board members and senior management. To date, 88 of the 93 recommendations of the Glenbrook report have been implemented. Major improvements have resulted from Glenbrook.

We now have data loggers installed and operating on all trains on the New South Wales network to monitor train speed. We have random drug and alcohol testing of rail safety workers. We have improved training of safety critical workers, including with simulators, to improve their ability to deal with emergencies and degraded operations, and we have clearer safety rules for workers. The independent regulator reports quarterly on progress made in implementing the Government's response to the Waterfall special commission of inquiry.

Mr Barry O'Farrell: Point of order: I refer to Standing Order 129. I appreciate the Premier's background as this is an important issue. However, the question went to why, 10 years on, and, in his own words, four years after the last report of the commission of inquiry, the first being in 2001, we still do not have the communication system that was promised or the communication recommendations implemented, which was the very cause of the accident.

The SPEAKER: Order! The Leader of the Opposition will resume his seat. That is not a point of order.

Mr NATHAN REES: The latest report, covering the period 1 July to 30 September 2009, was tabled on 6 November. As at 30 September this year, of the total 177 recommendations, including 127 recommendations and 50 sub-elements, 98 per cent or 173 recommendations are verified and closed. During the quarter, one recommendation, concerning the mandating of communications technology protocols and procedures through regulations, was closed. That was recommendation 43. There are recommendations yet to be implemented. One is recommendation 32, that RailCorp will roll out ATP over the next 10 years commencing in the next financial year at a cost of $600 million. Recommendations 36 and 37 require the mandating of the use of data loggers on all trains and the data collected by them. Data loggers record information on a train's operation, such as speed during a journey.

The independent regulator, the Independent Transport Safety and Reliability Regulator, advises that these recommendations were referred to the National Transport Commission, which has agreed to incorporate the development of national regulations for data loggers into its maintenance and reform program, noting, obviously, that trains cross State borders. The new interim target date for these recommendations is 28 February 2010.

NATIONAL HEALTH REFORM

Mr PAUL PEARCE: My question is directed to the Premier. Will the Premier update the House on discussions concerning national health reform and the position of the New South Wales Government?

Mr NATHAN REES: Universal healthcare is one of our nation's finest achievements, and it is fitting that we are discussing this topic today, on the thirty-seventh anniversary of the election of the Whitlam Government.

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

Mr NATHAN REES: The Whitlam Government ushered in one of the great policy changes in Australia in the form of Medibank, which, despite a number of attempts, the Coalition has been unable to dismantle because of its popularity with the Australian people. By any measure, our health system in Australia is excellent.

The SPEAKER: Order! Members will stop mumbling, including the member for Murray-Darling. He seems to be having a long conversation with himself.

Mr NATHAN REES: He is yet to make himself laugh. The National Health and Hospitals Reform Commission's report was delivered in July—

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

Mr NATHAN REES: The report stated:

> Our health outcomes are among the best in the world, we have delivered more successes than most in public health and disease prevention.

The SPEAKER: Order! I place the member for Clarence on two calls to order.

Mr NATHAN REES: There are two truths about our health system in Australia. The first truth is that it is one of the very best in the world. The second truth is that it is unsustainable. Rising costs and more complex conditions as our population ages are placing our system under intolerable strain. I ask members to consider this: Health now takes up around a third of the New South Wales budget. At the current rate of increase it could consume half our State's budget by 2030. That increase is being driven by changes in the patterns of illness and the patterns of disease. They are patterns, if we are to sustain the system, we must reverse. In a typical day in New South Wales hospitals, 20 patients will have their hips replaced, at a cost of around half a million dollars; 18 patients will have a knee replaced, at a cost of around $425,000; and 73 patients will have their cataracts removed, at a cost of around $260,000.

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

Mr NATHAN REES: Previously most hospital patients were treated for one-off problems. Today most patients are treated for chronic problems such as diabetes and lung disease that can go on for years or even a lifetime. In fact, chronic disease now makes up 70 per cent of the entire disease burden in New South Wales. That will rise to 80 per cent by 2020 on current trends. The cost of treating diabetes will rise by nearly 700 per cent between now and 2021. The cost of treating musculoskeletal disorders will rise by almost 200 per cent over the same period. To put it in more human terms, one in 10 members in this Chamber can expect to have diabetes. One in three members sitting in this House will develop cancer by the age of 85.

The single biggest demographic driver in Australia is our ageing population. An ageing population is a good thing as we enjoy longer life spans, but those longer life spans are being increasingly affected by chronic illness. Fifty per cent of people 65 and over have two or more co-existing chronic conditions. This helps explain why 45 per cent of all public hospital patients are elderly, even though they are only 14 per cent of the population. Our current health system is not set up to cater for ongoing chronic illness and age-related illness. Instead it is built around one-off visits to general practitioners and visits to emergency departments when things go wrong. In short, it is a sickness system, not a wellness system.

People with chronic conditions and frail older people with complex needs are frequent and often unnecessary visitors to our emergency departments. In New South Wales there are almost 200,000 unnecessary hospital admissions each year. Left untreated, these problems are driving our hospitals beyond the brink of sustainability. Behind all those clinical considerations are two yawning funding gaps. The first is a huge gap between what city dwellers and those in country areas receive. Medicare and Pharmaceutical Benefits Scheme payments are 23 per cent higher in capital cities than they are in rural and remote areas. That is not because city residents are sicker but because there are more providers offering more services in the cities than in our rural areas. That situation is inequitable and needs to change.

The other funding gap lies between the Commonwealth and the States. Under the Hawke and Keating governments the share of public hospital funding contributed by the Commonwealth was 50 per cent. Under John Howard, that fell to just 40 per cent—shameless cost shifting, forcing us to make impossible choices between Health and the other portfolio areas. That situation has been remedied somewhat over the last two years, but a fundamental imbalance between State resources and State responsibilities remains. The system as I have outlined needs to change. Without reform it will not survive. Without reform universal health care for Australians, regardless of income, will not survive. The National Health and Hospitals Reform Commission report released in July is a good starting point. We are constructively engaged with the Commonwealth on that report. But I believe we can—and must—go further.

Today I propose bold and unprecedented reforms for the Australian health system—a totally new model that sweeps away the complexity and overlap of the past whilst preserving fairness and universality. I propose the establishment of a unified health system that brings the Commonwealth and States together on the basis of shared effort and shared responsibility. I do not mean a Federal takeover but an integrated system run jointly by the Commonwealth, the States and health professionals. This would end cost shifting and blame shifting forever. Under this cooperative model, there would be a single national body—the National Health Commission—to set policy directions and allocate broad funding pools to regional health authorities. Regional health authorities would be the key to the whole system.

These authorities would be based roughly around the nation's existing area health service boundaries and would vertically integrate all health services in each geographical region. They would be run by a joint governance structure, for example, involving Federal and State officials, as well as clinical experts and community representatives. All health funding would be pooled, including Medicare funding, relevant aged care funding, Commonwealth grants and State health funding, including funding for hospitals and community care. All health care—from prevention and screening, through to general practitioners and allied health, our hospitals, rehabilitation and community aged care—would be provided through the authority. This would provide a seamless patient journey, ensuring that care matched patient needs rather than bureaucratic silos. The current incentives for cost shifting and blame shifting would be reduced, if not eliminated.

I propose that this idea be trialled in a single area health service, either in New South Wales or somewhere else in the country, so that the challenges and benefits of this model can be rigorously tested. Alternatively, if the Commonwealth, States and Territories agree to the model, it could be rolled out in a staged fashion across all area health services. New South Wales is willing to be at the forefront of this reform process. The reform model would change the nature of health care in Australia forever. No longer would communities complain that bureaucracies in Sydney or the other State capitals are dominating health care, nor would the

States be able to claim that health policy is being centralised in Canberra. The stranglehold of both would be broken. Instead, decisions would be made locally on what health improvement goals need to be set and how they can be realised. We are not proposing 220 of these in New South Wales. It would mean investing more in prevention and more in primary care. It would mean investing in step-down care for patients who no longer need to be in hospital. In short, the new Australian health system would be patient centred, seamless and flexible.

The Government is ready to commit our staff, resources and facilities to make this model work. This is a genuine proposal, which we put forward in the spirit of goodwill and cooperation. The detail will need to be worked through with our Federal and interstate colleagues and with the clinical communities. But let us have the conversation to preserve a universal health care for Australia. Let us get beyond the false distinction between a Federal takeover and States' rights. Let us build a wellness system instead of simply a health system—a system based on quality care, planned locally and delivered locally under a national framework; a system that puts patient care where it needs to be at the heart and centre of all that we do; and a system that makes Federal and State disputes a thing of the past. I commend this bold reform plan to the people of New South Wales and I look forward to discussing it with my Commonwealth and State colleagues in coming days.

DALWOOD ASSESSMENT CENTRE AND PALM AVENUE SCHOOL

Mr ANDREW STONER: My question is directed to the Minister for Education and Training. Why is the Minister closing the Dalwood Assessment Centre, which provides access to specialist learning services for country children with learning difficulties, before she finds a replacement joint residential service, which the Minister herself conceded should be done prior to any changes being made?

Ms VERITY FIRTH: The New South Wales Government is changing the delivery of programs to primary school students with serious learning difficulties in rural and remote New South Wales. NSW Health and the Department of Education and Training are currently working with peak groups such as the Isolated Children's Parents Association, the Aboriginal Education Consultative Group, the Speech Pathology Association, the Children's Hospital Education Research Institute, known as CHERI, and other bodies in the education and health fields to develop a new model to be implemented by day one, term one 2010. The consultation process will be finalised by the end of this year and the health and education departments will have the new programs ready for implementation by day one, term one. Students can still undergo a three-day to four-day specialised assessment at the Children's Hospital, Westmead from the start of the 2010 school year.

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

Ms VERITY FIRTH: I am providing information to the House. Members can take notes and I am happy to talk about it later. Parents who wish to discuss having their child assessed can call 02 9976 9100. Families whose child was enrolled or was due to be enrolled in the residential program can also contact 02 9941 3000 to receive information from the Department of Education and Training. As has been made clear, the outreach program is not changing and any parent who has concerns about their child's participation may also phone to get clarification. But what is changing—the point of the question—is the delivery of specialised educational programs. These will continue but in a different form. We have a unique opportunity to draw on the expertise of Palm Avenue teachers and Dalwood health professionals and to combine that with the leading research and clinical work of CHERI.

All parents want the earliest possible support for children who are struggling to learn, irrespective of where they live. The staff at Dalwood Assessment Centre and Palm Avenue School are skilled professionals, but as we know the model was designed as a residential model for older children. We know also, and the research tells us, that a four-week intensive program, while it offers intensive support and provides some games, does not always give students the teaching and learning strategies that will make the difference over the longer term. The new programs will build the capacity of health and educational professionals in rural New South Wales to better support young students with complex reading problems. The focus will be on helping students through a coordination of specialist services as soon as problems emerge in their local school. Again I argue that all the research shows us that when we can deliver those programs in the local school, students do better.

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

Ms VERITY FIRTH: Dalwood Assessment Centre and Palm Avenue School received children through the residential program from nine years of age. This means that some of these students had been struggling at school for up to four years.

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

Ms VERITY FIRTH: Students who have not developed into proficient readers by year 3 are likely to need intensive, ongoing, individualised reading instruction throughout their primary years if they are to make significant gains. That really is the key. It is about providing intervention early, in the schools that students attend. This help is best provided in the local school environment after assessment through the Best Start kindergarten program of the Department of Education and Training. It is also now possible, as we know, to bring a much broader range of learning opportunities through this technology into classrooms for students and their teachers in rural New South Wales. A change to this way of working will bring about gains for children in their local school environment, with parents and teachers all being part of a team that supports the children in their learning endeavours. The changes we are proposing at Dalwood have always been about what is in the best interests of the student—what we know works, what the evidence tells us works—and about delivering programs in a way that will best provide learning outcomes for those students.

MEDICAL ASSESSMENT UNITS

Mr ROBERT FUROLO: My question is addressed to the Minister for Health. Can the Minister update the House on the rollout of medical assessment units in hospitals across New South Wales?

Ms CARMEL TEBBUTT: Mr Premier, I thank—

The SPEAKER: Order! The House will come to order. There are some things you just cannot shake!

Ms CARMEL TEBBUTT: Mr Speaker, you should read nothing into my comment; it was a slip of the tongue.

The SPEAKER: Order! The House will come to order. Let us not turn a good moment into a bad moment.

Ms CARMEL TEBBUTT: I thank the member for Lakemba for his question and his ongoing interest in health issues. There is no doubt that developing new ways to deliver faster and better health care to older people and those with chronic conditions is a key priority for the New South Wales Government. We know that in recent years medical advances and changes in lifestyle have led to better health outcomes.

The SPEAKER: Order! The House will come to order. The Minister for Health is providing members with important information.

Ms CARMEL TEBBUTT: There is a saying "Small things—" and I will not go any further. We know that in recent years medical advances and changes in lifestyle have led to better health outcomes. For example, in New South Wales there has been a 35 per cent reduction in deaths from cardiovascular disease since 1995, and in the same period there has been a 16 per cent cut in cancer death rates for men and a 10 per cent reduction for women. These significant improvements in health outcomes mean that people in New South Wales are living longer and healthier lives, and they show that we have a world-class health system.

As the Premier said, we also have a rapidly ageing population, and the challenge before us is to provide better care for older people, especially those suffering from chronic conditions such as renal disease, respiratory disease, arthritis and diabetes. We also know that half of all New South Wales public hospital beds today are occupied by patients aged over 65, and that the number of people aged 65 and over will grow by a third over the next 10 years. The number of people aged over 75 seeking hospital treatment is growing by 20 per cent each year, and the average length of stay for patients aged over 75 is more than double that for stay for younger patient groups.

This poses real challenges. Our older citizens deserve the very best care in the most appropriate settings we can provide for them. The most up-to-date hospital performance data, which is being released today, underlines how well our public health system performs, but it also points to the huge demand for health services and the pressure on our hospital emergency departments. That is why we are giving priority to developing alternatives to emergency departments for patients. Most importantly, the New South Wales Government is backing solutions that have been designed and led by our health professionals. To help deliver faster, safer and better care for people with chronic conditions, medical assessment units have been established at major

hospitals, to provide early diagnosis and treatment for people whose condition is assessed as non-critical. These units are staffed with specialists with expertise in caring for patients with chronic conditions—specialist doctors, nurses and allied health professionals.

However, I want to stress that people with very serious or life-threatening conditions will continue to be treated in our emergency departments, and that that decision will be made by the emergency triage team comprising doctors and nurses. Interviews with patients and current research tell us that many patients find hospital stays a stressful and confusing time, and a busy emergency department is not always the most appropriate place to be treated. Medical assessment units aim to commence specialist treatment earlier, and to return patients to the comfort of their home.

The New South Wales Government has committed to the establishment of 29 medical assessment units with a total of 321 beds, and they will be supported by an annual investment of over $85 million. Twenty-three of these units have already opened their doors and are treating patients in some of our busiest hospitals. They include Royal North Shore, Bankstown, St George, Sutherland, Concord, John Hunter, Liverpool, Royal Prince Alfred, St Vincent's, Wollongong, Prince of Wales, Canterbury, Westmead, Campbelltown, Gosford, Nepean, the Children's Hospital Westmead, Blacktown, Maitland, Wyong, Fairfield, Sydney Children's Hospital and, most recently, the Calvary Mater Hospital, which opened on 14 September. Our most recent data shows that over 39,000 patients have been cared for in these units. Another six medical assessment units will open early next year, in Port Macquarie, Tweed, Lismore, Coffs Harbour, Orange and Mona Vale hospitals. This follows the Government's allocation of an extra $17.7 million to expand the program.

With regard to increasing demand, this Government has a response, a strategy and a plan—medical assessment units, an additional 2,000 beds or their equivalents since 2005, and a 10 per cent increase in the nursing workforce since 2005. If we are talking about increasing complexity, again on this side of the House we have a plan and a strategy—500 clinical support officers to be recruited, taking the load off our front-line doctors and nurses so that they can get back to what they do best, which is patient care; setting up the Bureau of Health Information; establishing the executive clinical director—

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

Ms CARMEL TEBBUTT: The Government has a clear strategy and a way forward. If we are talking about greater coordination, again, as we heard from the Premier, we have a plan and a strategy—improved coordination with the Commonwealth and a better focus on primary care. This can be contrasted with what happens on the other side of the House. The Deputy Leader of the Opposition likes to move very long motions with lots of words in them. But very long motions with lots of words, big or small, are no substitute for real policies. The Opposition has one policy initiative when it comes to Health. In this very difficult and complex area of Health, many issues need to be dealt with, including increasing demand, the ageing of our population, and the increasing cost of medical technological. The Opposition has one policy and one policy only. That policy is to replace the current area health services with health districts that have local boards. Health is not a one-size-fits-all portfolio.

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

Ms CARMEL TEBBUTT: It is incumbent upon the Opposition to grapple with the complexities of this very important policy area. The Opposition holds out to the community that it has answers, when it has no answers. The Opposition has no solutions. It has one policy. It does not matter what the challenge or the issue is, the member for North Shore puts out yet another press release with the same solution and the same one policy. That is simply unacceptable—

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

Ms CARMEL TEBBUTT: —and the community needs to compare and contrast what this side of the House is doing to deal with the challenges of Health services and reform with an ageing and growing population with those on the other side of the House, who have no strategies and only one policy that would make absolutely no difference.

RESCUE HELICOPTER SERVICES

Mrs JILLIAN SKINNER: My question is directed to the Minister for Health. After dumping the Careflight and lifesaver rescue helicopter services in favour of a foreign owner and operator, how can the Minister guarantee continuity of quality patient care when a leaked memo reveals foreign operator CHC is now reviewing its operations in Australia with a view to selling the service to an interested buyer?

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

Ms CARMEL TEBBUTT: Would the solution of the member for North Shore be to replace area health services with districts and boards? Would that make any difference? No, it would make absolutely no difference.

The SPEAKER: Order! Members will cease interrupting

Ms CARMEL TEBBUTT: I will follow up on the issue raised by the member for North Shore, and I will respond to it in due course. I simply point out that once again we have an example of how the member for North Shore has no solutions to complex issues confronting the Health portfolio. The member for North Shore relies on leaked documents and innuendo. I am happy to follow up on the issue raised, but I point out that—

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

Ms CARMEL TEBBUTT: —on so many occasions the member for North Shore has come into this Chamber with her leaked document and, yet, she is wrong; she provides false information. I will follow up on the issue, and I will get back to the member for North Shore; but, based on past history, we cannot always trust everything the member for North Shore raises in this Chamber.

ROAD SAFETY

Ms LYLEA McMAHON: I address my question to the Minister for Transport. Will the Minister update the House on what the Government is doing to enhance road safety over the Christmas holiday period?

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

Mr DAVID CAMPBELL: I can update the House that a joint road safety campaign is starting this week, a campaign aimed at motorists over the Christmas-New Year holiday period. There will be hundreds of thousands of motorists on the State's roads leading up to Christmas, over the New Year period and into January. Motorists will be driving long distances and they may take risks or drive tired at the wheel. The New South Wales road toll stands today—

The SPEAKER: Order! Opposition members will extend some courtesy to the Minister and allow him to respond to the question. The Minister has the call.

Mr DAVID CAMPBELL: The road toll in New South Wales stands at 427 deaths so far in this calendar year. This compares to a road toll of 338 deaths at the same time last year. I urge everyone heading away on holidays to take care, to take regular rest breaks and to slow down. The major contributing factors to crashes should remind everyone to drive safely: around 40 per cent of all fatalities involve speeding, 20 per cent of deaths are directly related to drink driving, and at least 16 percent of the motor vehicle occupants killed on our roads were not wearing available seat belts.

Extra funding has been allocated by the State Government to get as many police out onto our roads as possible to ensure that motorists are driving safely. The Government has allocated $3.9 million in funding to go towards police operations over the summer holiday period, and it will also fund an advertising campaign. The advertising campaign obviously will not get through to the member for Upper Hunter as he has a very short attention span. The advertising campaign will make sure that motorists are getting the message to drive safely and that police are out there.

The Roads and Traffic Authority is partnering with NSW Police through the joint Enhanced Enforcement Program, which will fund an extra 87,000 of police hours out on the road, on top of what police are already doing to enforce road safety on our roads. This summer's Enhanced Enforcement Program has been developed with the 2009 road toll in mind. As a result of direct advice from police in the field, we know where drivers are more likely to do the wrong thing. By putting this intelligence into practice, NSW Police and the Roads and Traffic Authority have come up with strategies for each region to make sure each community's road safety concerns are properly addressed. Mr Speaker, it is quite clear that The Nationals and Liberal Party members have no interest in the issue of road safety.

The SPEAKER: Order!

Mr DAVID CAMPBELL: It is extremely obvious from the level of noise from those opposite that they have no interest in this matter.

The SPEAKER: Order! I call the member for Upper Hunter to order for the third time. I call the member for Terrigal to order for the second time.

Mr DAVID CAMPBELL: Over the course of the summer, 52 additional police operations will be working in local area commands across New South Wales. For example, in the southern region Operation South Roads will target speeding and drink driving, and Operation Safe Roads will target motorists in Wollongong and surrounding areas. In the western region Operation Backline will target speeding, drink driving, fatigue and inappropriate driver behaviour, while in northern New South Wales the focus will be on speeding and drink driving. This is alongside four statewide campaigns: Operation Drink Drive 1 and 2, Operation Safe Arrival and Operation Safe Return.

An advertising campaign will start this weekend with the theme "You're in our sights". This will raise awareness of police operations and increased police presence. The campaign will cover print, online and billboard advertising to send the message that people can get caught anywhere and at any time. There are two components to the advertising campaign: statewide operations and regionally based programs, targeting speeding, fatigue, drink driving and failing to wear seatbelts. Motorists need to know that police will be out there. If they do the wrong thing, they will get caught. If they do the right thing, they are likely to arrive safely.

The Government, through the Roads and Traffic Authority, has allocated over $10 million for Enhanced Enforcement Programs across New South Wales this year, which has risen from a total of $8.2 million last year, which illustrates the Government's emphasis on road safety. Over the past five years an amount of $40 million has been allocated to Enhanced Enforcement Programs. Over the Christmas and New Year holiday period motorists will be able to stop at one of 1,400 rest areas across the State.

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

Mr DAVID CAMPBELL: For the benefit of the member for Coffs Harbour, an interactive set of maps outlining the rest areas and Driver Reviver sites available to heavy and light vehicles is now available on the Roads and Traffic Authority website. I take this opportunity, and I know members of the House will share this thought, to thank the many volunteers who spend their time at rest areas as part of the Driver Reviver program, providing food and refreshing beverages to motorists. Motorists should take the opportunity to have a break at one of these rest stops or even head off the highway and stop at a regional town for a meal and a break. I urge all motorists to plan ahead for their trips away. With school holidays about to start, families will be heading off on road trips across New South Wales. I ask all motorists not to drink and drive, to stick to the speed limit, to not drive when they normally would be asleep and, most of all, to take regular breaks on long journeys.

AMBULANCE CALL CENTRE TRIPLE-0 RESPONSE

Mr ANDREW FRASER: My question without notice is directed to the Premier. Was an Arrawarra man in his seventies, with a broken thigh bone, left lying in a paddock in the hot sun with ants crawling over him for more than two hours and requiring three calls to the triple-0 number because of the Government's failure to provide an adequate response to emergency services calls?

Mr NATHAN REES: I am advised that a call to the triple-0 number raised concerns about an ambulance delay on 16 October 2009 to Arrawarra on the mid North Coast. At 1.43 p.m. on 16 October the triple-0 number received a call for an ambulance to attend Lorikeet Tourist Park at Arrawarra. The caller reported that an elderly man had suffered a fall in his yard. Just prior to this call the service was notified of a multi-vehicle road accident, and the northbound lane of the Pacific Highway was blocked. Liquid was reported to be leaking from a vehicle and one person was trapped. This incident utilised a number of local and neighbouring ambulances. The caller called back at 2.26 p.m. to raise concerns about the patient being in the sun. I am advised that the Ambulance Service was not aware of that at the time of the initial call. During the second call the caller was notified of the delay due to the serious motor vehicle accident.

On the face of it, this incident is unacceptable. However, I am advised that the Ambulance Service currently is conducting a review into the matter. I also understand that the Minister has directed that the Ambulance Service speak with the relevant parties today about this matter. Each year the Government spends about $400 million on ambulance services. This year we spent $65 million more than we did last year. The

Ambulance Service responds to around 1.2 million incidents. More than 90 per cent of the most serious emergencies receive paramedic care within 15 minutes, which meets relevant benchmarks. Similar to the question relating to helicopter contracts, the Opposition is perpetrating a fraud on the people of New South Wales if it thinks it can paper over the fundamental reform that is required of our health system.

No State jurisdiction is in a position to categorically state that the health system is sustainable the way it is currently run. The Opposition can score the inevitable political points on occasions when things go wrong in our public health system. But in the overwhelming number of cases things go extremely well and our system is one of the very best in the world. I could run through examples. Opposition members will not fix the increase in type 2 diabetes—at a cost of $5,000 per person for treatment, and growing—with a hospital board. They will not fix the massive growth in the chronic and complex conditions that beset our health system with a new hospital board. They will not fix the growth in pharmaceuticals and general practitioner attendances with a cosmetic change to governance structures. They will not fix the chronic shortage of medical specialists around Australia, particularly in rural and remote areas, without fundamental reform of our health system along the lines that I outlined earlier in Question Time.

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

Mrs Jillian Skinner: You have had 14 years.

The SPEAKER: Order! I call the member for North Shore to order for the third time.

Mr NATHAN REES: You have had 10 years. The Deputy Leader of the Opposition has been shadow spokesperson for Health for a decade. In that time the recurrent health budget in New South Wales has gone from $6 billion per annum to $15 billion per annum. That rate of growth in Australia is unsustainable. The Opposition proposes to paper over the cracks in our system. Their proposal does not deliver a single extra nurse, doctor or hospital. It simply papers over the cracks in the system. The inevitable result of not engaging in fundamental reform of our health system is that the system will crumble and the only people who will be able to afford high-quality health care in Australia will be the wealthy. That may not matter to the Opposition, but it matters to the Government.

ALCOHOL-RELATED VIOLENCE

Mr MATTHEW MORRIS: My question without notice is addressed to the Minister for Gaming and Racing. Can the Minister update the House on measures to curb alcohol-related violence in the Hunter?

Mr KEVIN GREENE: In March last year a range of special licence conditions were imposed upon 14 venues in the Newcastle central business district [CBD] precinct. Those conditions were imposed in response to community concerns about alcohol-related disturbances and antisocial behaviour, especially late at night. This is about local solutions to local problems. Earlier today the Bureau of Crime Statistics and Research released a report into the effect of those restrictions and I am pleased to advise that the findings are very encouraging. In the 12 months following the imposition of the conditions, night-time, non-domestic violence-related assaults fell 29 per cent and disorderly conduct incidents fell 46 per cent. This is great news for the people of Newcastle and it reflects well on those people who have played an active role in combating alcohol-related problems on the ground.

I particularly acknowledge the work of the Newcastle Liquor Accord, inspectors from the Office of Liquor, Gaming and Racing and the hardworking police, who have responsibility for enforcing the special conditions and liquor laws in Newcastle. This report is an endorsement of their good work and I commend their efforts. The report concludes that there was no displacement of alcohol-related problems from the Newcastle CBD to the neighbouring Hamilton precinct. The report specifically notes no significant increase in assaults during the period. Nonetheless, following exhaustive investigation and consultation involving local residents and Police, the Government will impose a range of special conditions on six licensed venues in the Hamilton area from 11 December 2009.

These conditions are targeted at neighbourhood disturbance and antisocial behaviour in and around venues. Although this is not an exhaustive list, the conditions include: a 1.30 a.m. lockout; from 11.00 p.m. on Fridays and Saturdays at least one Responsible Service of Alcohol marshal must be on hand to monitor consumption and intoxication levels throughout the premises; for venues trading past midnight security staff are

to disperse patrons from the immediate area of the premises after closing; and all bottles and alcohol containers within a 100 metre radius of the premises must be collected within one hour of closing. As I said, further conditions apply.

These conditions are similar to those imposed in Newcastle and are designed to address the concerns of residents and Police. They are not final. The effectiveness of the conditions will be reviewed in six months and at that time further conditions may be considered, including any need to change trading hours. The community has made its views clear on alcohol-related violence, antisocial behaviour and drunks disturbing their neighbourhood. It will not be tolerated. That is why the Government has introduced a range of measures to target the problem. Whether these are localised solutions for areas facing specific problems, such as Newcastle, Hamilton or the Sydney CBD, or our statewide ranking system targeting the most violent venues, the Government is determined to continue working to reduce alcohol-related problems in New South Wales.

PUBLIC HOUSING AIR-CONDITIONING

Mrs DAWN FARDELL: My question without notice is directed to the Minister for Housing. Over recent months it has been Department of Housing policy to remove air-conditioning from many of its properties in the Dubbo area. Can the Minister explain the air-conditioning policy of the Department of Housing?

Mr DAVID BORGER: I thank the member for Dubbo for her very active interest in supporting social housing tenants within her electorate. There is no question that people who live out west find it very, very hot, particularly in summer—

The SPEAKER: Order! Members will allow the Minister to complete his response.

Mr DAVID BORGER: Many tenants could obviously benefit from the luxury of air-conditioning.

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

Mr DAVID BORGER: I can advise that Housing NSW installs air-conditioning in dwellings for people with significant medical problems or disabilities. This may occur following a recommendation from an occupational therapist or a medical practitioner. But I must stress that air-conditioning units are not generally an essential part of providing public housing in New South Wales nor are they installed as a standard fixture in any of our homes. It has been our policy to remove air-conditioning units from private homes that have been spot purchased for social housing, mainly because of the high costs of running and maintaining the units. However, I am very happy to review any individual cases the member for Dubbo may bring to my attention and to review those cases.

I can advise the member for Dubbo that other cooling measures are used in new housing properties in New South Wales. We design our homes for proper orientation: sun shading devices to try to capture the northern sun in the winter to heat the homes; solar-control glass in selected units; roof eaves; ceramic floor tiles over concrete slabs; double brick exteriors; and external wall construction with lightly coloured external finishes to reflect the sun's rays.

Housing NSW is working in partnership with the Department of Environment, Climate Change and Water to install ceiling installation in social housing properties, which includes housing that is managed by community housing providers and the Aboriginal Housing Office. It is very interesting that members of the Opposition have been attacking the stimulus package and whipping up fear campaigns against it in this State. It is a concerted campaign by the Liberals to attack social housing, and we are not surprised because they have never had a policy or shown support for these issues. The purpose of the program is to provide climate-proofing measures for existing homes, to increase comfort levels and health benefits for residents living in extreme cold and hot climates.

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

Mr DAVID BORGER: Properties that have had ceiling insulation installed to date are those in hot climatic zones such as Dubbo, Orange and Bathurst. It should be noted that public housing tenants are, on occasion, permitted to install their own air-conditioning systems on the proviso that they pay for the installation, maintenance and all ongoing costs, including higher electricity bills. But the reality is that air-conditioning units are not a standard item provided by any public housing authority in any State. Maintaining air-conditioning units means fewer homes for the disabled, the elderly and the disadvantaged.

It is our responsibility to maintain air-conditioning units in our properties for many years into the future. They need regular inspections and we need to balance that cost with other critical maintenance services such as maintaining kitchens and bathrooms, hot water systems and sewerage systems. Notwithstanding that, I am very happy to review any cases that the member for Dubbo wishes to put forward to me.

NATIONAL EMERGENCY WARNING ALERT SYSTEM

The Hon. MATT BROWN: My question is addressed to the Minister for Emergency Services. Will the Minister update the House on the rollout of the national emergency warning alert system?

The SPEAKER: Order! I remind all members that we are still in question time.

Mr STEVE WHAN: New South Wales has the best emergency services workers in the country. The New South Wales Government is committed to providing our emergency services personnel with the resources they need to do their job and protect the community. That is why from today our emergency services personnel have access to the latest telephone-based system to warn the community about potentially life-threatening emergencies. Emergency Alert is a telephone-based warning system that can send as many as 300 text messages every second to mobile phones and 1,000 voice messages each minute to landlines—messages that will help emergency services personnel save lives.

The Emergency Alert system allows our emergency services to send precise localised warning messages to communities at risk of flood, tsunami, public order or terrorist events, major chemical spills or, of course, fire. The development and introduction of the Emergency Alert telephone-based warning system was agreed to by the Australian and State governments following the devastating Black Saturday bushfires in Victoria. Emergency Alert has been tested extensively in Victoria, with more than 50,000 messages successfully issued to landlines and mobile phones. From today that system is live and ready to go across New South Wales. I notice members of the Opposition joking about this system and making comments, which shows their lack of understanding and support for our emergency services. The Opposition has no policies on emergency services—

The SPEAKER: Order! The member for Bega will come order.

Mr STEVE WHAN: —except for its ridiculous proposal to hazard reduction burn five million hectares a year. I do not know how those opposite would fund that or where it would come out in the costings.

The SPEAKER: Order! I place the member for Murray-Darling on three calls to order.

Mr STEVE WHAN: The Opposition has not asked me a question on emergency services for the entire year. If the emergency services elect to use the Emergency Alert system, messages will be sent from their operations centres to landlines and mobile phones with billing addresses in specific locations. The messages will provide people with information about the nature of the emergency situation, what action they should take and where they can get more information, such as a website or the local radio where information is being broadcast.

As has been said in this place, this State has never been better prepared for a bushfire season. It is important to remember—and the Opposition should pay attention to this because its interjections so far have shown a complete lack of understanding on this—that Emergency Alert is just one tool in a comprehensive package of resources available to our emergency services. The traditional means of informing communities about emergencies remain. Radio and the media are key ways of letting people know about emergencies and people should continue to listen to those sources. Also, doorknocking of communities by our emergency services is still vital in the process. Emergency Alert is another way of getting messages out to the community. It is very important for people to understand that Emergency Alert is an important additional tool in the arsenal to warn people, but that it is not a replacement for those other methods.

The announcement that the Emergency Alert system is now available and ready to be used in New South Wales shows the progress that the Government has been making on the various recommendations following the Victorian fires. In just a few months since the Victorian royal commission introduced the nationally consistent fire danger ratings and warnings, backed by an education campaign, we have tripled the capacity of the information line of the Rural Fire Service so that it can take 12,000 calls a day. By way of a comparison, on a very hot weekend recently the information line took 700 calls in a day. Another area that the Opposition cannot get its head around is that we have already 380 neighbourhood safer places on the website of the Rural Fire Service, and I emphasise the word "safer". They are not the entire solution; they are part of a last-resort solution.

The Opposition seems to think that every local government area will have one. That is wrong again and shows a lack of understanding. Many local government areas will not need a safer place; many will have far more than one—they may even have five or 10. It will be a long process and will require some very hard work from the Rural Fire Service to collate those, and we want it done properly. We have given a $6 million increase to aerial firefighting resources; we have undertaken record hazard reduction work this year; and, most importantly, we have provided record funding of $216 million for the Rural Fire Service—a record that the Opposition cannot and will not match because its policy is to abolish the funding source for the Rural Fire Service.

Question time concluded at 3.20 p.m.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to section 63C of the Public Finance and Audit Act 1983, of the Auditor-General's Report 2009, Volume Eight.

STANDING COMMITTEE ON NATURAL RESOURCE MANAGEMENT (CLIMATE CHANGE)

Reference

Ms NOREEN HAY: I inform the House that in accordance with the resolution of the House relating to the establishment of committees, the Standing Committee on Natural Resource Management (Climate Change) resolved on 2 December 2009 to adopt the following reference:

That the Standing Committee on Natural Resource Management (Climate Change) inquire into issues of sustainable water management with particular reference to climate change impacts and, in particular, to report on the following terms of reference:

(a) the likely impact of climate change on the availability of water resources under different climatic scenarios;

(b) approaches to the management of water resources by all water users including provision for environmental flows; and

(c) best practice in water conservation and management.

JOINT STANDING COMMITTEE ON ROAD SAFETY

Report

Mr Geoff Corrigan, as chair, tabled the report entitled "Report on Pedestrian Safety (Ministerial Reference)", Report No. 3/54, dated December 2009, together with associated extracts, the minutes of evidence and transcript of evidence.

Report ordered to be printed on motion by Mr Geoff Corrigan.

PETITIONS

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

Woy Woy Hospital Rehabilitation Unit

Petition opposing the closure of the rehabilitation unit at Woy Woy Hospital, received from **Mrs Judy Hopwood**.

Wagga Wagga Base Hospital

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

Tumut Renal Dialysis Service

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

Tumut Hospital and Batlow Multiple Purpose Service

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

Tumut Hospital Anaesthetic Services

Petition asking that anaesthetic services at Tumut Hospital be made available immediately, received from **Mr Daryl Maguire**.

Princes Highway Rest Areas

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

South Coast Rail Services

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

South Coast Rail Line Staffing

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

Berowra Traffic Noise Abatement

Petition requesting that noise levels be reduced on the F3 Freeway at Berowra, received from **Mrs Judy Hopwood**.

Bus Service 311

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

Adoption Laws

Petitions opposing any adoption law changes that take away the right of adopted children to be raised by a mother and a father, received from **Mr Peter Draper**, **Ms Sonia Hornery**, **Mr Paul Lynch**, **Mr George Souris** and **Mr John Williams**.

Culburra Policing

Petition requesting increased police numbers in the Culburra area, received from **Mrs Shelley Hancock**.

Shoalhaven Police Station

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

National Parks Tourism Developments

Petition opposing the construction of tourism developments in national parks, received from **Ms Clover Moore**.

Ryde Department of Housing

Petition requesting community consultation on the construction of Department of Housing homes in the Ryde electorate, received from **Mr Victor Dominello**.

Drought Relief Worker Job Protection

Petition requesting that the jobs of drought relief workers be protected, received from **Mr Greg Aplin**.

Pet Shops

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

Game and Feral Animal Control Amendment Bill 2009

Petition opposing the Game and Feral Animal Control Amendment Bill 2009 in its entirety, received from **Ms Clover Moore**.

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

Woy Woy Hospital Rehabilitation Unit

Petition opposing the closure of the rehabilitation unit at Woy Woy Hospital, received from **Mr Jonathan O'Dea**.

Newell Highway Speed Limit

Petition opposing the Newell Highway speed limit reduction from 110 kilometres an hour to 100 kilometres an hour, received from **Mrs Dawn Fardell**.

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

The Hon. Carmel Tebbutt—Wagga Wagga Base Hospital—lodged 28 October 2009 (Mr Daryl Maguire)

The Hon. David Campbell—Pyrmont Metro Train Station—lodged 24 September 2009 (Ms Clover Moore)

The Hon. Kristina Keneally—Northbridge Suspension Bridge—lodged 28 October 2009 (Ms Gladys Berejiklian)

BUSINESS OF THE HOUSE

Reordering of General Business

Mrs JILLIAN SKINNER (North Shore—Deputy Leader of the Opposition) [3.24 p.m.]: I move:

> That the General Business Notice of Motion (General Notice) given by me this day [Health System] have precedence on Thursday 3 December 2009.

My motion draws attention to the fact that patients and staff are complaining about a broken health system while the Rees Government is trying to hide the very things that highlight the problems we are encountering in our hospitals and health services. It is all very well for the Minister for Health and the Premier to try to discredit the Opposition's policy. They are doing that because our policy is resonating with the community. People want openness and transparency. Government members should look at our policy because it is all about publishing information.

The Minister for Health announced today that hospital waiting lists are now longer than ever. Surprise, surprise! I lodged a freedom of information request and the response was due on 25 November. It was loaded on the department's website today and I am happy to say that my wonderful staff have managed to get it for me during question time. As I thought, the waiting list now comprises—wait for it—66,651 people. I believe that is a record; it is the largest number of people ever on the hospital waiting list. We have 66,651 people waiting for elective surgery. That is an increase from about 64,500 just one month ago. That is why the Government tried to

hide this information. It clearly demonstrates that the Government is addicted to secrecy. It is incompetent and tries to hide its problems. I have lodged other freedom of information requests relating to cuts in experienced staff. The New South Wales Nurses' Association—normally an ally of this Government—has indicated that it is very unhappy about staff cuts, redundancies offered to nurses in western Sydney—

Mr Anthony Roberts: Who stood up for them?

Mrs JILLIAN SKINNER: I stood up for them and the Coalition stood up for them. What happened? The Government tried to get rid of the headlines by saying that it would conduct a review of nursing numbers. Where is it? Nowhere! The Government has hidden that information; it has not provided it despite a freedom of information request. I have also lodged a freedom of information request about unpaid hospital bills. At this time last year the Premier was forced to admit to the Parliament that NSW Health had in excess of $100 million in bills that had been outstanding for more than 45 days. The response to my freedom of information request was due on 25 November. This is a scam. The Government is trying to hide the fact that patients and the public are fed up. That is not surprising given that things have gone so horribly wrong. I also draw the attention of the House to the fact that the Government and the Minister have failed to table the annual reports.

Mr Anthony Roberts: Where is the Minister?

Mrs JILLIAN SKINNER: The Minister is not here; she cannot stand this kind of information. If she had any courage she would come into the Chamber now and table the NSW Health annual report and the annual reports of all the area health services and the Westmead Hospital. We would then have data indicating how long people are waiting for emergency treatment, how many nurses have lost their jobs and the level of indebtedness. That information would be revealed and subjected to public scrutiny if the Minister had honoured her obligations under the Accounts and Audit Determination for Public Health Organisations, which I downloaded from the NSW Health website today. The Minister was supposed to table those documents on 30 October.

The Coalition's practical and positive plans include the establishment of an independent information bureau. Of course, those plans also provide for district boards and allow clinicians and community members once again to have a say in what happens in their hospitals and health services. We suggested the information bureau long before the Minister thought it was a good idea. What did we say we would publish on a regular basis? We said that we would publish hospital budgets, how they are being spent, how many people are owed money, what services are provided in what hospitals and hospital infection rates. I will deal with that issue now.

Today we heard the Minister for Transport talk about road deaths, which are tragic. The number of people dying from hospital-acquired infections is nearly as high as the road toll that the Minister announced today and higher than the 2008 road toll. Members opposite have been silent about the infection rate. No wonder they are bleating about the Opposition's health policy. We are on top; they are not. Members opposite have no plans or policies. They are incompetent and addicted to hiding information because they do not want people to know about the appalling state of the health system. Shame on this Government and the Minister for not being in the House to debate this motion.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.28 p.m.]: Once again the member for North Shore is suffering from conspiracy theory syndrome. That does not do her any credit and everything she said is dead wrong. There is no need for the House to debate the member's motion because the Minister for Health has advised that the September quarter performance data about which the member for North Shore is complaining is being released today. According to the member we are all conspirators and we are all trying to hide the facts. The data is out there already!

Mrs Jillian Skinner: Point of order—

The SPEAKER: Order! Members will not debate the substantive motion.

Mrs Jillian Skinner: My point of order relates to Standing Order 76. I referred to the September figures in my speech.

Mr JOHN AQUILINA: The data shows that the State's hospitals have experienced unprecedented numbers of presentations to emergency departments and admissions to intensive care units as a result of the H1N1 2009 influenza pandemic. That was an extraordinary event. Despite that, more patients are receiving treatment in emergency departments than ever before in New South Wales. That is what the data will show. It is a credit to the public hospital system and its dedicated personnel.

The September 2009 performance data shows more than 163,000 emergency department attendances recorded during the month, a 1.5 per cent increase on the same time last year. I am advised that for the three months from July to September we had in excess of 517,000 presentations, an increase of 4.7 per cent on the same period last year. Emergency department admissions have also continued to increase—that is what this data that the member says the Government is hiding will show; it is out there—with an additional 3.6 per cent of patients admitted to hospital in September compared with the same month last year. This means that more than 36,000 patients were admitted to hospital after initial emergency department triage during September this year. For the three months from July to September there was in excess of 113,000 emergency department admissions. That is what the data that is out there will show.

While the performance of our emergency departments dipped a little in the face of increasing demand and the impact of the H1N1 pandemic, overall performance was on par with the previous quarter, despite the doomsday allegations of the member for North Shore. The member for North Shore's claim that our health system is broken is simply not true. Her whole theme is just dead wrong. Everything she has said this afternoon is dead wrong. There is no reason for this motion because New South Wales regularly provides information on the website and in its annual reports about what it does, the results it achieves and the challenges faced.

New South Wales public health services provide more information to patients, their families, the community and taxpayers than other systems and providers. They are committed to honouring the principles of the Freedom of Information Act. Again, there is simply no need for the member for North Shore's motion. The Coalition appears to be unaware that the New South Wales Ombudsman recently reviewed the freedom of information practices at the New South Wales Department of Health and two of the area health services. The Ombudsman specifically commended the Department of Health on many aspects of its freedom of information procedures such as acknowledging the independence of the department and health services in making freedom of information determinations, and the thorough search efforts conducted in processing applications. What the member is implying is fundamentally wrong.

The Department of Health and area health services do a remarkable job in handling the volume of freedom of information applications they receive. I am advised this matter is not urgent because in 2008-09 alone the Department of Health completed 80 applications where the department held some or all documents requested. Of those 80 applications, full access was granted in response to 47 applications. That is full access to nearly 60 per cent of all freedom of information applications, and partial access was granted in response to 21 of those applications, or 26 per cent. In many cases, partial access is granted simply because personal details of individuals must be blacked out. Exempting this information is critical in maintaining the privacy of individuals. The whole basis of the member's information is wrong. She is out of order. There is no need for her motion; her motion is opposed.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 40

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

Noes, 47

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

Pair

Mr Page	Ms Hornery

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Business Lapsed

General Business Notices of Motions (General Notices) Nos 560 to 564 will lapse on Thursday 3 December 2009 pursuant to Standing Order 105 (3).

NURSE STAFF REDUCTIONS

Personal Explanation

Mr JOHN WILLIAMS, by leave: Yesterday I made a private member's statement regarding nurse staff reductions in the Greater Southern Area Health Service. The Parliamentary Secretary responded to my private member's statement and made a couple of comments that I found offensive. She stated:

> I find it interesting that he is making the allegation that those assistants in nursing will be replacing registered nurses, which we know cannot happen. I ask him to review the proposal, because anyone who knows anything about the health system will know that is not able to happen, due to the legislative framework.

The SPEAKER: Order! The member for Murray-Darling must state how his reputation has been impugned.

Mr JOHN WILLIAMS: She said, "I am a bit sceptical about some of the things the member has put on record." She said that I should refer to the Nurses Association.

The SPEAKER: Order! The member for Murray-Darling will resume his seat. He should read the standing orders with respect to personal explanations. He must state how his character has been impugned. He is debating the issue. If his character has not been impugned, he should resume his seat.

Mr JOHN WILLIAMS: She said I lied about the information.

The SPEAKER: Order! The member has corrected the record.

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY

Emissions Trading Scheme

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [3.42 p.m.]: My motion should be accorded priority because we should support a national emissions trading scheme as a vital way to reduce greenhouse gas emissions. It should be accorded priority because the Federal Leader of the Opposition should join all leaders, whether State, Federal or international, in supporting a scheme to reduce the impacts of climate change as soon as possible. The motion should be accorded priority because the people of New South Wales should know where the New South Wales Coalition stands on the most important reform for the people of Australia.

The motion should be accorded priority because the Coalition's position on climate change needs to be put clearly to the people of New South Wales. It should be accorded priority because this House has a responsibility to discuss and debate climate change. The motion should be accorded priority because the people of New South Wales need to know whether the new Leader of the Federal Opposition will go back to the old ways when he acknowledged he was a climate change sceptic. The motion should be accorded priority because the Opposition should outline to the people whom it supports. Does the Opposition support someone such as the Federal Leader of the Opposition, who will go backwards on climate change and back to WorkChoices? The motion should be accorded priority because the people need to know if the shadow spokesperson on climate change in this place supports the Howard acolyte Abbott in his view of climate change. It should be accorded priority because it is most important reform for the people of Australia.

Rail Safety

Ms GLADYS BEREJIKLIAN (Willoughby) [3.45 p.m.]: At the outset, on behalf of the New South Wales Liberals and Nationals, I extend our deepest condolences to the family and friends of the seven people—

Mrs Karyn Paluzzano: Say it and mean it, Gladys.

The SPEAKER: Order!

Ms GLADYS BEREJIKLIAN: I will ignore that interjection. I extend our deepest condolences to the family and friends of the seven people who tragically lost their lives in the Glenbrook rail disaster, which occurred exactly 10 years ago today. We can only imagine the anguish and loss experienced by those who lost a loved one that day and again extend our heartfelt sympathy. We also extend our thoughts to the 51 passengers who were injured and to the other survivors, who, along with the broader community, could not have anticipated the tragedy that was to unfold that day. We also acknowledge the role of emergency services personnel, the brave men and women, who worked tirelessly and selflessly to assist the victims. We thank them.

The anniversary of the tragedy brings home to us the importance of safety in public transport. I take this opportunity to thank and acknowledge all the dedicated front-line staff throughout the public transport network who put safety first on a daily basis. Their efforts must be supported by the implementation of key recommendations put forward by reports that followed both the Glenbrook disaster, which occurred exactly 10 years ago today, and the Waterfall rail accident. Members would recall the Waterfall accident that occurred in January 2003 where, again, seven people tragically lost their lives.

It is a major concern that the State Government has failed to implement key recommendations from those reports and for that reason this important matter should be debated in the House today. It was of extreme concern that during question time the Premier was asked a specific question about why key recommendations following the Glenbrook disaster were not implemented. He skirted the question. He failed to address recommendation 38, which relates specifically to communications. I referred the Premier to the initial report arising from the Glenbrook rail accident and the final report released in April 2001. Under the section "Communications", recommendations 26 to 37 relate specifically to the importance of communications throughout the rail network. Although the Premier referred to other recommendations, he specifically left out of his answer today recommendation 38, which arose firstly out of Glenbrook, then from the Waterfall accident. It states:

> There must be a compatibility of communications systems throughout the rail network. It is essential that all train drivers, train controllers, signallers, train guards and supervisors of trackside work gangs in New South Wales be able to communicate using the same technology.

The recommendation is there in black and white. It was first discussed in the reports following the tragic accidents at Glenbrook and Waterfall. The recommendation, which the Leader of the Opposition raised during question time, will now not be implemented until 2012, a further two years. It was of concern that in question time today the Premier of New South Wales avoided answering the question. Other key recommendations also have not been implemented that go to the heart of rail safety in this State. That is why this motion should be debated today. It is important for the Government to put rail safety first. However, the Government's failure to implement these key recommendations demonstrates that, unfortunately, it does not put rail safety first.

Another key recommendation that has not been implemented relates to automatic train protection. This is a key recommendation because automatic train protection ensures that if a train approaches a red signal and the driver is unable to stop a train—has a heart attack, falls over the controls or whatever—the train would automatically stop. That key recommendation still has not been implemented. The most recent report of the Waterfall inquiry has stated that the recommendation will not be implemented until next year, at least four years late.

Another key recommendation that has not been implemented relates to data logging. The last update of the rail safety report into the Waterfall incident is of concern. It said that data loggers should be put on all trains. However, the implementation of that recommendation has also been delayed for another six months. Few issues in this place would be more important than the day-to-day safety of rail commuters. If the Government does not think that that is an important issue to debate today, that will show again its lack of commitment to rail safety and public transport safety throughout New South Wales. Today, of all days, I urge all members to support my motion.

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

The House divided.

Ayes, 48

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

Noes, 40

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

Pair

Ms Hornery Mr Page

Question resolved in the affirmative.

EMISSIONS TRADING SCHEME

Motion Accorded Priority

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [3.57 p.m.]: I move:

That this House:

(1) supports a national emissions trading scheme as the primary means of reducing greenhouse gas emissions;

(2) calls on the new Federal Leader of the Opposition to cooperate with the Australian Government to pass the Carbon Pollution Reduction Scheme legislation as soon as possible; and

(3) condemns members of the Coalition who continue to deny the scientific evidence of climate change.

Obviously, this is quite a sensitive issue for members opposite. It is in the interests of members opposite to support this motion and to debate it today. As the shadow spokesperson for Transport stated, it is 10 years since the Glenbrook rail disaster. The Glenbrook community not only endured a rail accident in 1999; it endured a rail accident in 1977 and a rail accident in 1976. It is in the interests of members opposite that we debate the future with regard to greenhouse gas emissions and climate change. It is in the interests of the victims I spoke with this morning, on behalf of the Rees Government, and the surviving families of the people who died in those three tragic accidents that we debate this vital issue of climate change.

The DEPUTY-SPEAKER: Order! Opposition members will come to order.

Mrs KARYN PALUZZANO: I was with Andrew Roberts, who not only lost his father in one of those accidents but also lost his great-grandfather in another. It is vital to the people of Glenbrook and the people of New South Wales as a whole to ensure that those opposite stand for what is indicated on the website of the New South Wales Division of the Liberal Party: "The Liberal Party in New South Wales is a party on the move and committed to a strong and vibrant future". I therefore ask the Leader of the Opposition, on behalf of those opposite, to disclose the Opposition's position on the single most important issue that will affect our future, as well as the future of the families and survivors of the Glenbrook train disaster—that is, the Carbon Pollution Reduction Scheme currently before the Federal Parliament.

The Carbon Pollution Reduction Scheme will bring about the biggest economic reform since the opening of Australia's economy under the Hawke and Keating governments of the 1980s and 1990s. But so far the New South Wales Liberal Party has been remarkably silent on the issue. It has no policies, no press releases and nothing to inform the New South Wales community as to where it stands. Is it possible, as we move towards 2010, that a major political party in an advanced democratic economy does not have a climate change policy? The Opposition must declare a clear policy position on this issue. If the Opposition supported it yesterday, why does it not support it today?

If one is genuinely committed to protecting the State's ongoing prosperity and natural assets one must support the introduction of the Carbon Pollution Reduction Scheme as the primary mechanism to reducing Australia's greenhouse gas emissions. The New South Wales Opposition must, without delay, petition the new Federal Opposition Leader to support the establishment of the Carbon Pollution Reduction Scheme. However, I fear for the future of our community and, as I stated earlier, I fear for those in the Glenbrook community should Mr Abbott ever prove successful in his ambitions, given he is so eloquently on the record for his belief that climate change is "absolute crap". What hope do members of the New South Wales Opposition have of successfully petitioning their new Federal leader? What hope do the people of Glenbrook, the people of the lower Blue Mountains, and the people of the rest of New South Wales have that the Liberals-Nationals will take effective action when Malcolm Turnbull, the former Opposition Leader, went on the record yesterday to reveal that the new team of conservatives:

> … do not believe that climate change is real, they do not believe that humans are causing it and they do not want to do anything about it.

The New South Wales Government has long been an advocate of emissions trading schemes as the primary way for Australia to reduce its greenhouse gases. In 2003 the Government introduced one of the first mandatory greenhouse emissions trading schemes, and it has led the national debate on the need for a response to climate change. The New South Wales Government has been a strong supporter of the efforts of the Commonwealth Government to introduce an emissions trading scheme, its introduction of the expanded Renewable Energy Target, and the $4.5 billion Clean Energy Initiative. That is why the New South Wales Government congratulates Prime Minister Kevin Rudd, and former Federal Opposition Leader Malcolm Turnbull, on reaching agreement on the Commonwealth's Carbon Pollution Reduction Scheme.

There is no doubt that bringing in a Carbon Pollution Reduction Scheme is a complex process, but the issues have been examined for many years. It is now time for action. Only a strong economy can drive the scale of investment in low-emissions technology that will be needed if we are to achieve deep cuts in carbon emissions. So it is sensible and smart to include transitional measures to preserve our economic capabilities as they are redirected to cleaner technologies. Both the Federal Government and the New South Wales Government have long expressed commitment to helping low- and middle-income households deal with price increases caused by the Carbon Pollution Reduction Scheme.

To ensure that the most vulnerable in our society are never forgotten the New South Wales Government is investing $272 million in rebates and payment assistance over the next five years. The Government has already increased the rebate to pensioners to $130 per annum, increased the vouchers available to customers in crisis to $480 per annum, announced new medical energy rebates for people who rely on heating and cooling at home to stay well, and expanded the assistance for people on dialysis and life-support machines. The Government has also introduced a number of schemes to drive down those costs, and 220,000 low-income households will receive home visits, advice and practical support. The Black Balloon campaign, which was launched in the middle of Penrith, allows people to cut their power bills by around $100 per annum, which will assist low-income households. I urge Opposition members to outline their support and join with the Federal Government in its Carbon Pollution Reduction Scheme.

Mr ANDREW CONSTANCE (Bega) [4.04 p.m.]: I move:

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

this House calls on the New South Wales Government to ensure adequate compensation for New South Wales based businesses and communities affected by Federal Government's climate change policies.

This afternoon the Liberals-Nationals Coalition sought to debate in this place the very serious issue of rail safety following the Glenbrook train disaster. What the member for Penrith has done is beyond belief and totally unacceptable. The member for Penrith chose to vote against the motion to bring on that debate. The issues that the member is now seeking to debate in this House are more properly debated in Federal Parliament. That is why I have sought to amend the motion with the inclusion of the words "ensure adequate compensation" for those New South Wales businesses and families that will be affected by the climate change policies of the Federal Government. In fact, the second paragraph of the motion of the member for Penrith is basically moribund because four or five hours ago the Senate voted against the legislation.

Mr Kevin Humphries: It is gone.

Mr ANDREW CONSTANCE: It is gone. That is a fact. That makes what the member for Penrith is doing this afternoon even more ridiculous. It is somewhat embarrassing that the member for Penrith has sought to move this motion. The member for Penrith is not up to speed with current affairs. She is obviously not up to speed with what went on in relation to this matter earlier today in Federal Parliament. For a long time the Liberals-Nationals Coalition has been at the forefront of policy development in renewable technologies in New South Wales. In fact, the Leader of the Opposition, Barry O'Farrell, was the first to announce a policy in relation to a gross feed-in tariff.

A couple of months later Labor rushed out a net feed-in policy, only to realise some nine months later that that approach was wrong. As a result of the backing down from—it was a strategy brought about, I think, by Ms Carmel Tebbutt—the policy approach of a net feed-in tariff to a gross feed-in tariff, thousands of consumers and customers around the State who had installed net meters were left out of pocket. Moving to a gross feed-in tariff system will mean that those net meters can no longer be used, which will consequently lead to a considerable cost to consumers.

The Leader of the Opposition, Mr Barry O'Farrell**,** with the Leader of The Nationals, Mr Andrew Stoner, took the lead in trying to bolster the renewable energy sector in New South Wales into adopting a gross feed-in tariff scheme. It took the State Government 12 months to realise that the Opposition's approach was the correct approach. In the meantime the State Government has seen the renewable energy sector move to other jurisdictions around the countryside because of better policy approaches of other State governments to further enhance the renewable energy sector. I am disappointed that the member for Penrith did not raise that point, but it is hardly surprising given her demonstration this afternoon of a lack of knowledge on this issue.

Another matter relevant to the amendment I have moved relates to the findings released earlier this week by the Independent Pricing and Regulatory Tribunal, which indicated that electricity prices will increase by 60 percent over the next three years. Members in this House well know that over the past 14 years State Labor has mismanaged the electricity system. In that time $11 billion has been ripped out in dividends but the Government has failed to invest that money in infrastructure and renewable energies.

Consumers now face a significant increase because of the way in which the Labor Government has mismanaged the electricity system in this State. Is it any wonder the energy and water Ombudsman is receiving a record number of complaints—a 20 per cent increase since 1 July 2009? The member for Penrith has failed to tell her constituents and the House today that times are going to get tougher. She has failed to acknowledge that already people are struggling to meet their bill obligations. It is hoped that the State Government will do more, particularly given the $11 billion of dividends it has reaped from the State-owned corporations that run the State's electricity system.

It is an example of gross mismanagement and neglect on the part of the State Government. The member for Penrith mischievously said that the Opposition has not issued any statements on climate change. I draw her attention to statements made by the Hon. Catherine Cusack on this issue. The member in the other place has consistently highlighted the State Government's failure to adopt a climate change action plan. She has called for such a plan. Under Labor, from 1995 to 2007 emissions in New South Wales have risen from 150 million tonnes of CO_2 to 162 million tonnes. That is a significant increase of 8 per cent. The Government has done nothing to combat that rise. It is patronising for State Labor to play politics on this issue.

Mr GRANT McBRIDE (The Entrance) [4.11 p.m.]: I support the motion moved by the member for Penrith. Yesterday the Federal Liberal Party elected Tony Abbott, also known as the Mad Monk—lovingly by members of the Liberal party, I understand—to the position of leader of the Liberal Party. His policy for election was simple: climate change does not exist. He won by one vote in the party room. One vote in the Liberal Party room has led to the defeat of the emissions trading scheme bill in the national Parliament, following more than 10 years of committees, inquiries and hearings, all supporting an emissions trading scheme. Former Prime Minister John Howard, Tony Abbott's mentor, also supported the scheme.

The New South Wales Government joins with our Federal colleagues in recognising that climate change is one of the single most important issues that will affect our future. Every Opposition member would agree with that. I interpret the silence as agreement. The Government accepts the advice of the world's leading scientists. The consensus of more than 2,000 of these best and brightest thinkers is that there is now overwhelming evidence that climate change is human induced. For this reason, forward-thinking governments across Australia and in other countries, such as the New South Wales Government, are investing in renewable energy, energy efficiency and other policies that will reduce carbon emissions for a sustainable future.

Meanwhile, New South Wales leads the country in developing an emissions trading scheme. New South Wales has developed the emissions trading scheme for Australia. Our scheme has been used by the Federal Government as a template in designing its emissions trading scheme, which is relevant to all Australia. In the face of the toughest global challenge this generation will confront, the Liberal-Nationals Coalition has moved to block action on climate change. Yesterday it voted for a climate change sceptic as its new leader—the infamous climate change ditherer, Tony Abbott.

Mr Andrew Constance: You laugh at your own joke.

Mr GRANT McBRIDE: It is not a joke. This is a serious issue that affects not only today's generation, but also our children and our children's children. We congratulate former Federal leader Malcolm Turnbull for showing leadership on this issue by striking an agreement with the Rudd Government on the Commonwealth Carbon Pollution Reduction Scheme. That scheme also was agreed to and endorsed by the unsuccessful contender, Joe Hockey. The Liberal Party is now seeing a shift to the right—the extreme right. That would be a

disappointment for the people of New South Wales, the members of the Liberal Party and those who represent the Liberal Party in this Parliament. On striking the deal Mr Turnbull stated in the *Sydney Morning Herald* of 29 November 2009 that he was:

> … not interested in becoming a mouthpiece or a patsy or a tool of people whose views are completely wrong and are contrary to the best interests of our nation, our planet and indeed the Liberal Party.

In the article Mr Turnbull also said that a party without a credible climate change policy "is not capable of winning an election". Now we have a new Federal Coalition leader who is aligning himself with his party's climate change deniers, led by Nick Minchin, Barnaby Joyce, Andrew Robb and Wilson Tuckey, who would oppose anything. His policy on climate change is not to have a policy. Yesterday was a dark day for the people of New South Wales and for families all over Australia. Let us examine Tony Abbott's climate change song and dance. On 28 July 2009 at the launch of his book *Battlelines*, a new handbook for members of the Liberal Party, he said:

> I'm far from convinced by climate change science, and I think an ETS is dubious economics.

On 8 October 2009 in the *Age* he said, "The argument on climate change is absolute crap." Every elected representative in this House would realise that climate change is not crap. It is real; it is occurring. Therefore, I would expect that Opposition members would support the motion moved by the member for Penrith. On 8 October 2009 on the *7.30 Report* Mr Abbott said:

> I think that the science is far from settled, but on the insurance principle you are prepared to take reasonable precautions against significant potential risks … and that's I think why it makes sense to have an ETS.

So on 8 October 2009 Mr Abbott said we should have an emissions trading scheme. [*Time expired*.]

Mr KEVIN HUMPHRIES (Barwon) [4.16 p.m.]: We have just listened to a lot about nothing from Government members. As the Opposition has always said in relation to managing New South Wales—which the current State Labor Government continually fails to understand—the Opposition concentrates on fixing the problems, the Government concentrates on fixing the headlines. For the first three minutes of her speech, the member for Penrith, who moved this motion, did not make one reference to climate change or the wording of her motion. I suspect she was embarrassed that 4½ hours earlier a vote in the Federal Parliament made most of her motion redundant. By moving the motion, she was speaking to past news.

The Opposition has tried to advise the Government on climate change issues. If the Government concentrated on running the State more efficiently and productively and on dealing with issues in its own backyard, such as service delivery and proper planning policy, we may not have all these issues. As the member for Bega highlighted, the CO_2 emissions in this State continue to rise. They are not decreasing. The Government has to take responsibility for the fact that its poor management and inability to connect with the people of New South Wales are major contributors to pollution in our State. It must run a more efficient transport system. As a country member, I know from talking to people in the city how cranky they are and disconnected from the Government. The Government must fix the transport systems.

As the member for Bega said, the Coalition introduced the policy on feed-in tariffs in order to drive the solar industry and renewable industries in this State. The confused and incompetent Labor Government bunged it up. The Coalition introduced the issue of renewable and alternative fuels. From memory, Mr Andrew Stoner first raised the issue about mandated ethanol targets. It was not the Government. Who are the people who continually talk about the benefits of solar energy and wind energy? It is the people on this side of the House because we know we have got the capacity to deliver those projects. Who were the people who tried to stymie and hold up the largest single renewable project in this State—a wind farm proposal at Silverton, near Broken Hill? It was the Government because it could not get its contracts right with the landholders. People on the other side of the House have held up some of the largest renewable energy projects in this State because they cannot get the planning right and they cannot get the infrastructure issues right.

We have said we would fix the problems. We will not concentrate on the headlines. I note interjections from members on the other side who basically have no plan. They cannot say they have delivered for the people of New South Wales when it comes to dealing with climate change. We support the amendment moved by the member for Bega because members on the other side of the House have no idea of the effects any emissions trading scheme will have on the people of New South Wales. They cannot model anything in this State, so how

can they model the effect an emissions trading scheme will have on the people of New South Wales? They utter platitudes about pensioners, but we will offer rebates to people trying to survive on life-saving equipment such as dialysis.

We know we are going to have rampant price increases in electricity. That is because the people on the other side of the House have sat and done nothing about the electricity issue in this State for 14 years. They have reaped $11 billion from the people of New South Wales but they have put nothing back. They have contributed nothing to this debate at all but they continue to rely on Federal debate as a distraction for their failed, incompetent, lazy approach to managing this State. They are the wreckers of this State and they need to acknowledge that.

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [4.21 p.m.], in reply: In moving this motion I said that we should look towards State, Federal and international leaders and listen to what they say about this most important issue before us. Members opposite did not mention that recently in the Commonwealth nations meeting in the Caribbean, in her opening address the most conservative leader in the world, Queen Elizabeth II, urged the Commonwealth to take a lead on climate change.She said that the Commonwealth should be proud of the fact that in each of its six decades it has shaped the international response on emerging global challenges. She said that before the United Nations Summit on Climate Change it is important that the Commonwealth has an opportunity to lead once more.

Mr Andrew Constance: Point of order: My point of order relates to the fact that the member for Penrith is now introducing new material into the debate. She did not mention the Caribbean at any point in her contribution.

The DEPUTY-SPEAKER: Order! The member for Bega is out of order. He is wasting the time of the House. He will resume his seat. The member for Penrith has the call.

Mrs KARYN PALUZZANO: The Opposition is very sensitive on this matter. I note that the former shadow Minister for Climate Change did not take part in this debate. I wonder why. I wonder whether he was relegated because of his comments that first and foremost he did not think we should have an emissions trading scheme. It is interesting to note that in his contribution to the debate not once did the member for Barwon speak about the amendment moved by the Opposition, not once did he mention the businesses of New South Wales and not once did he mention the adequate compensation to New South Wales.

To make sure that the Opposition fully understands our commitment on this issue I repeat that in 2010 New South Wales will have the most generous payments in the country to ensure that families with rooftop solar panels will get incentives to help create a better future for the State. Also, if the Federal Government had been supported New South Wales businesses and workers would have been able to take advantage of the enormous opportunities for investment, job creation and new apprenticeships that the transition to a low-carbon economy would have brought. Some of the key roles for New South Wales would have included improving energy efficiencies to our city's homes and workplaces and designing our cities and infrastructure to require less energy.

I note that the Building Sustainability Index [BASIX] is in our building regulation code, which is about reducing the amount of energy within newly constructed homes. It also would assist the economy and community to adapt to the anticipated changes to sea levels. Not once did the Opposition mention anything about mitigating the heat island effect or the effects of rainfall, bushfire and water availability; developing the opportunity for clean energy jobs growth; or positioning Sydney as a carbon training and financial hub. All those opportunities are gone because of the scepticism of those opposite and because of the lack of leadership in the Federal Opposition.

We are well on our way to a new climate change action plan in New South Wales that will have a broader focus than emissions reduction. The member for Penrith and the member for Blue Mountains attended the climate change action plan meeting in Wentworth Falls and put forward submissions on behalf of their communities. We hoped that the Liberals and The Nationals would join this side of the House and support this motion but, as we know, the shadow Parliamentary Secretary for Climate Change is just like his sceptical Federal counterparts and is on the record as saying that first and foremost he does not think we should have an emissions trading scheme.

In June last year the then shadow Minister for Climate Change called a Sydney radio station to express her views about climate change. She said we should not be talking about global issues in which Australia can

play only a very little part. The head of the Commonwealth, Queen Elizabeth II, did not express that view last week. I believe she said that Australia plays an active and strong leadership role. The then shadow Minister for Climate Change said that even if we did all these things it would be at an incredible cost to the Australian economy and would make no difference to the world. She warned about the danger of us being reduced back to a mediaeval standard of living. That is what we have on the other side of the House: people who dither and are sceptical. We on this side are committed to action, but where is the Coalition's plan? The Coalition is a joke and it is the laughing stock of the nation. The shadow Minister has come out with more lines such as, " I do not think carbon is a pollutant and it does not affect the climate." I urge members on this side of the House to support this important motion.

Question—That the words stand—put.

The House divided.

Ayes, 48

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

Noes, 37

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

Pair

Ms Hornery Ms Goward

Question resolved in the affirmative.

Amendment negatived.

Motion agreed to.

ACTING-SPEAKER (Ms Diane Beamer): Order! It being after 4.30 p.m., the House will now proceed to Government business.

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) AMENDMENT BILL 2009

Agreement in Principle

Debate resumed from an earlier hour.

Mr GEOFF CORRIGAN (Camden) [4.35 p.m.]: I support the Personal Property Securities (Commonwealth Powers) Amendment Bill 2009. This bill is an important part of personal property securities reform. The bill contains a number of machinery provisions to facilitate the creation of a single national register of security interests over personal property. It amends legislation to remove requirements to register security interests on the Register of Encumbered Vehicles and on the Register of Security Interest in Goods. Those interests will instead be registered on the national Personal Property Securities Register [PPSR] once it is established. A single register will be a huge achievement and it will provide much more certainty to lenders and grantors.

The Commonwealth Attorney-General's Department estimates that in Australia more than 70 Commonwealth, State and Territory Acts regulate personal property securities. This means that the law and practice concerning a particular personal property security vary depending on the legal form of the grantor, for example, company, individual or other entity; the State or Territory in which the personal property is located; the legal form of the personal property security, for example, fixed and floating charges, chattel mortgages, finance leases, commercial consignments, including retention of title arrangements and pawns; and the nature of the personal property, for example, motor vehicles, investment instruments or livestock. All of this obviously impacts on New South Wales business. That is why it is important that New South Wales plays its part in establishing a national system for regulating personal property securities.

A national system will mean that we have a single set of laws for determining priorities between security holders, for example. Uniform rules dealing with the creation, extinguishment and enforcement of security interests in personal property will also be implemented. It will mean we have a single register of interests, and businesses will need only to search and register on one register, regardless of the type of personal property or the location of the debtor. Everyone benefits from this new, streamlined approach. A report on the general costs and benefits of personal property securities reform prepared by Access Economics identified the key benefits as being lower costs for lenders and borrowers, greater access to lending, and improved certainty. At the moment the main cause of high costs is the number of regimes and registers. Lenders are required to search multiple registers to check whether property is already subject to a claim.

Having one universal register will reduce the costs of providing finance. This will also benefit borrowers because the costs of borrowing against personal property should be reduced. There will need to be further amendments to New South Wales legislation before the personal property securities scheme commences. These will be introduced next year after further consultation with the relevant government agencies and Ministers. I am pleased to see continuing progress on this important national reform. I commend the bill to the House.

Mr GREG SMITH (Epping) [4.39 p.m.]: The Personal Property Securities (Commonwealth Powers) Amendment Bill 2009 amends the Personal Property Securities (Commonwealth Powers) Act 2009 to make provision for matters of a savings or transitional nature consequent on the referral of matters by that Act to the Parliament of the Commonwealth, and to make related amendments to other legislation. The subject is finance secured over personal property including motor vehicles and licences that cannot be transferred.

With the Personal Property Securities (Commonwealth Powers) Act 2009 the Parliament of New South Wales referred certain matters relating to security interests in personal property to the Commonwealth Parliament to enable the Commonwealth to make laws about those matters. The Commonwealth Personal Property Securities Bill 2009, which establishes the national scheme, is currently before the Commonwealth Parliament. The current New South Wales bill deals with savings, transitional matters, and related amendments to other legislation. It also provides for the repeal of the Registration of Interests in Goods Act 1986 and the Security Interests in Goods Act 2005.

The bill applies to various categories of licences, which are property, including property, stock and business agents, conveyancers, valuers and motor vehicle repair tradespersons' certificates. These are not transferable and cannot be borrowed by others. It covers personal property—tangible and intangible—which might form security for a loan, such as vehicles, office furniture, machinery, art works, stock, trademarks and

patents. One of the consequences of the scheme is that the popular and well-known New South Wales register of motor vehicle encumbrances [REVS] will close and the information will transfer to the new national register controlled by the Commonwealth. I hope it will be just as easy to make an inquiry on the Commonwealth register as it is at the moment, because it is an extremely useful service.

The same future is destined for the security interest in goods register. An exception is made for crop, stock, agricultural goods and licence mortgages, which are currently excluded from the new scheme and will continue to operate in New South Wales as before. The Government is still looking into these. The bill was introduced on 12 November 2009. The national personal property securities scheme was due to commence in May 2010, but following submissions from business and recommendations from the Senate Legal and Constitutional Affairs Legislation Committee, the Council of Australian Governments has moved the date to May 2011.

Obviously, under this bill and its parent, it is an improvement to have a consistent registration scheme for personal securities such as finance over motor vehicles. The bill removes inconsistencies and uncertainties for businesses operating in more than one State. The bill should facilitate improved freedom of trade and commerce across the nation by letting consumers, businesses and regulators search a truly national register of finance interests secured against chattels and licences. It should make it easier for businesses to raise finance by way of loan secured against chattels or licences. I suppose you could say against the bill that the New South Wales Government will have reduced control over the register of encumbered vehicles—which has been a good public relations product as well as something that assisted the community in an efficient way. I am pleased to say I do not oppose the bill.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [4.43 p.m.], in reply: I thank the members representing the electorates of Albury, Camden and Epping for their contributions to this debate. The bill is part of reforms to introduce a single national legislative scheme for the regulation and registration of security interests in personal property. The bill will repeal the Registration of Interests in Goods Act 1986, which established a register of encumbered vehicles maintained by the Department of Services, Technology and Administration. The bill will also repeal the Security Interests in Goods Act 2005, which established the Register of Security Interest in Goods maintained by the Land and Property Management Authority.

The bill will enable the two existing New South Wales registers to be incorporated into the new national Personal Property Securities Register. After the Personal Property Securities Scheme commences, security interests that could have previously been registered on the Register of Encumbered Vehicles or on the Register of Security Interest in Goods will be able to be registered on the national Personal Property Securities Register. Existing security interests on the New South Wales registers will be transferred to the Personal Property Securities Register.

In June the New South Wales Parliament passed the Personal Property Securities (Commonwealth Powers) Act 2009, referring power to the Commonwealth to implement a national scheme. The Commonwealth Personal Property Securities Bill 2009 is currently before the Commonwealth Parliament. The national Personal Property Securities Scheme is due to commence in May 2011. The national scheme will establish a set of nationally comprehensive rules governing security interests in personal property and a single national online register of personal property securities. The national personal property securities reforms are landmark reforms. In a broad sense, they are part of the package of reforms approved by the Council of Australian Governments aimed at moving towards a seamless national economy through the reform of business and other regulation. The reforms will make it easier for businesses to operate across State and Territory borders.

More particularly, the personal property securities reforms will benefit both business and consumers by delivering more certain, consistent and cheaper arrangements applying in relation to personal property securities. They will promote lower transaction and compliance costs for all parties involved in personal property securities transactions and encourage more diverse financing options. With regard to the concern of the member for Epping, I am advised that New South Wales will work closely with the Commonwealth to ensure that the Personal Property Securities Register is as useful and as easy to use as the Register of Encumbered Vehicles. Having said that, and having answered the member's concerns, I have pleasure in commending the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

TRUSTEE COMPANIES AMENDMENT BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary), [4.47 p.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

The bill was introduced in the other place on 11 November 2009 and the agreement in principle speech is in the same form as the second reading speech that appears on pages 51 and 52 of the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG SMITH (Epping) [4.47 p.m.]: I lead for the Liberals-Nationals on the Trustee Companies Amendment Bill 2009. The object of the bill is to give effect to the new legislative scheme whereby licensed trustee companies are governed under Commonwealth legislation. In mid 2008 the Council of Australian Governments agreed to pass on the responsibility for the regulation of trustee companies to the Commonwealth. Under the proposed scheme, the Commonwealth will have exclusive responsibility for trustee companies' licensing and the regulation of their fees. The Trustee Companies Act 1964, as well as common law and equity, will otherwise continue to govern the functions and powers of trustee companies.

The bill aims to amend the Trustee Companies Act 1964 upon the passage of the relevant Commonwealth legislation by removing State approval mechanisms for trustee companies, defining trustee companies as licensed trustee companies under Commonwealth law, and facilitating the transfer of business of a trustee company that has had its licence cancelled. In particular, the bill removes various redundant definitions and replaces the definition of "trustee company" with the following: "a licensed trustee company within the meaning of Chapter 5D of the Corporations Act 2001 of the Commonwealth".

The bill also repeals various provisions relating to advances, commissions and fees, other mandatory provisions relating to accounts and winding up, sections pertaining to borrowing, loans, and related liabilities of a trustee company, those which concern the personal liability of a managing director of a trustee company, provisions that pertain to shareholdings in trustee companies, and those concerning indemnities and any variations of any unpaid capital to trust company Fiduciary Services Limited.

The bill also removes "excluded matters" under section 5F of the Commonwealth Corporations Act 2001. The bill inserts a new section 34A. This section concerns compulsory transfer determinations and applies to situations where the Australian Securities and Investments Commission exercises its powers to cancel a licence of a trustee company under the relevant Commonwealth laws, and makes a transfer determination in relation to the company's estate assets and liabilities to a receiving company. New section 34B stipulates that State tax is not payable in relation to an exempt matter, and exempt matters are defined as the transfer of estate assets to a receiving company under Commonwealth laws.

The three existing schedules in the Trustee Companies Act are replaced by two new schedules. The first schedule contains savings, transitional and other provisions. These concern the continued operation of regulations, and the operation of the proposed scheme on estate management functions carried out under a grant of administration in force before the commencement of this bill. The first schedule also stipulates that various existing provisions, which this bill proposes to repeal, will have continuing effect in the event that action has been commenced under them before the passage of the bill. These provisions include section 18 (3), which concerns applications for review of commissions before the repeal of the section by this bill; section 17A, which relates to sums advanced under that section before the repeal of the section by this bill; section 20A to section 22, which concerns applications before a court for the filing of an account, an order for an account or an audit, before the repeal of the section by this bill; and section 29D, which relates to any financial statements that are required to be forwarded under the section before the repeal of the section by this bill.

The second schedule amends other Acts and instruments to give effect to the new scheme. The bill amends the Conveyancing Act 1919 by changing the definition of "trustee company" to "a licensed trustee company within the meaning of chapter 5D of the Corporations Act 2001 of the Commonwealth authorised by

an Act of New South Wales to act as trustee". A new provision in part 8 is inserted into the Conveyancing Act. The provision stipulates that any action taken by a trustee company before the enactment of the present scheme continues to have effect. The Duties Act 1997 removes section 54 (b) in the definition of "special trustee" and inserts instead "a licensed trustee company within the meaning of chapter 5D of the Corporations Act 2001 of the Commonwealth".

For the sake of clarity, further amendments remove from section 54 (1) (c) the words "or a trustee company referred to in paragraph (b)". The bill amends the Probate and Administration Act by replacing the definition in section 3 (1) of "trustee company" with a new definition, which reads, "a licensed trustee company within the meaning of Chapter 5D of the Corporations Act 2001 of the Commonwealth authorised by an Act of New South Wales to act as trustee". A new provision is also inserted which stipulates that any action taken by a trustee company before the enactment of the present scheme continues to have effect. The Trustee Companies Regulation is also amended by the removal of clause 4 through to clause 8 and the insertion of a new clause 4 concerning "small estates".

These amendments give a trustee company power to elect to administer an estate if its gross value is less than $10,000, and outline the processes for the election to be made. Arguments for the proposed amendments give effect to the Council of Australian Governments agreement of 2008. A single licensing and reporting regime for trustee companies administered by the Australian Securities and Investments Commission would be beneficial to the industry. It eliminates unnecessary regulatory burden from multiple State and Territory regimes, and improves competition between trustee companies. Moreover, trustee companies will be required to be licensed, which will increase the accountability and standards of the industry. A consumer protection regime will apply to the financial services industry under the Commonwealth Corporations Act. It will be cost efficient and provide an improved alternative dispute resolution mechanism. The Opposition does not oppose the bill.

Mr NINOS KHOSHABA (Smithfield) [4.54 p.m.]: I am pleased to support the Trustee Companies Amendment Bill 2009, which amends the Trustee Companies Act to facilitate the transfer of responsibility for regulating trustee companies to the Commonwealth. It will eliminate the unnecessary regulatory burden on trustee companies that arises from duplicate licensing and reporting requirements in each State and Territory. The New South Wales Trustee Companies Act currently defines trustee companies as companies listed in a schedule to the Act, authorises these companies to provide certain traditional trustee services, and regulates those companies.

The Government has regard to guidelines when considering an application for a company to be included in the schedule as a trustee company. It considers issues such as whether the company has demonstrated it can operate independently to discharge its common law and statutory duties without external influence; it has a wide spread of shareholdings, a strong financial base, an approved policy of indemnity insurance for a minimum amount, and professional expertise and experience both at the board and management level. The amendments to the Corporations Act passed by the Commonwealth Parliament define "trustee companies" as companies prescribed in the regulations and "licensed trustee companies" as companies that hold an Australian financial services licence covering the provision of one or more traditional trustee company services.

The Australian Securities and Investment Commission [ASIC] Australian Financial Services licensing regime will impose requirements on trustee companies, such as adequate compensation arrangements; ensuring organisational competence and that representatives are competently trained and have adequate resources to comply with their legal obligations; reporting requirements; and a $5 million capital adequacy requirement. The Commonwealth will determine which companies will be authorised to provide traditional trustee services through the ASIC Australian Financial Services licensing regime.

The bill amends the Trustee Companies Act so the trustee companies will no longer be defined as listed in the New South Wales Act but as licensed trustee companies under the Commonwealth Act. The bill repeals other provisions in the Trustee Companies Act because the Commonwealth legislation indicates an intention that certain provisions in its legislation apply to the exclusion of State laws. Repealing the relevant provisions of the New South Wales Trustee Companies Act 1964 will ensure that it is clear that the Commonwealth provisions, and not the superseded State provisions, apply and should be adhered to.

For instance, provisions in the Commonwealth legislation will replace similar provisions in the New South Wales Trustee Companies Act 1964 which provide that a trustee company is not required to file or file

and pass accounts relating to a deceased estate unless ordered to do so by the court and that entitled persons with a proper interest in an estate request the trustee company to provide an account of the assets, expenditure or distributions from the estate. The Trustee Companies Act 1964 currently places ownership restrictions on trustee companies in order to maintain a broad spread of ownership and minimise the possibility that a single stakeholder could obtain control. In general, a person cannot own more than 20 per cent of the shares in a trustee company.

These restrictions will be repealed and replaced with provisions in the Commonwealth bill that generally limit ownership to 15 per cent of the shares in a trustee company, which is comparable to the limitation for financial sector companies under the Commonwealth Financial Sector (Shareholdings) Act 1998. Other provisions to be repealed and replaced in the Corporations Act include provisions that regulate fees that companies may charge for the provision of traditional trustee company services and the disclosure of those fees, and provisions dealing with the duties of offices or employees of companies that provide traditional trustee company services in their capacity as offices or employees of those companies. Provisions in the Trustee Companies Act 1964 requiring trustee companies to provide six-monthly financial statements relating to minimum capital requirement and indemnity insurance will be repealed, as these matters will be dealt with through the ASIC Australian Financial Services licensing regime.

Consultation on this project has been extensive. In June 2008 the Commonwealth Treasury released a green paper on financial services and credit reform, which included options for the regulation of trustee companies, and invited comments. More than 15 written submissions on the Commonwealth regulation of trustee companies were received. The Commonwealth Treasury undertook face-to-face consultation with industry and other key stakeholders, including Philanthropy Australia and other stakeholders from the charitable trust sector. This revealed strong support from all stakeholders for the Commonwealth regulation of trustee companies, and for consumer protection and disclosure regulation with supervision by the Australian Securities and Investments Commission.

The bill will facilitate a smooth transition to national regulation of trustee companies, and remove an unnecessary regulatory burden on trustee companies. This should encourage competition in the personal trust market, which will benefit consumers. Consumers will also benefit from the consumer protection provisions of the corporations legislation. The bill will bring substantial benefits to both trustee companies and consumers, and I commend it to the House.

Mr ALAN ASHTON (East Hills) [5.01 p.m.]: The Trustee Companies Amendment Bill 2009 repeals parts of the Trustee Companies Act and implements a 2008 Council of Australian Governments agreement that the Commonwealth would assume responsibility for the regulation of trustee companies and for legislation to be in place to give effect to this by the end of 2009. The Commonwealth Parliament has already passed the Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009, which provides for a single national licensing regime for trustee companies to be administered by the Australian Securities and Investments Commission.

The bill amends the New South Wales Trustee Companies Act to recognise trustee companies licensed under the Corporations Act and to repeal provisions of the New South Wales Act that are being replaced with provisions in the Corporations Act. For instance, part 5D.4 of the Commonwealth Corporations Act sets out the duties of officers and employees of licensed trustee companies. These can be broadly described as duties of loyalty and good faith, and duties of care, skill and diligence—which are obviously essential when dealing with trustee corporations.

There are both civil and criminal penalties for a contravention of the Commonwealth duties. These duties, together with duties imposed by other Corporations Act provisions, such as section 197, will govern officers' and employees' duties and liabilities and will replace provisions in the New South Wales Trustee Companies Act 1964 that impose personal liability on officers and employees. There will also be a direct obligation on trustee companies to have adequate compensation arrangements—for example, insurance—under the Commonwealth Australian financial services licensing regime.

Other provisions in the New South Wales Trustee Companies Act 1964 are being retained because there are no equivalent provisions in the Commonwealth legislation and the intention is that the States and Territories legislation will continue to cover these areas. It appears that the Federal law is silent on these matters. These include provisions that authorise, empower and regulate trustee companies in relation to the

administration of deceased estates; authorise trustee companies to be appointed as a trustee, receiver or manager of an estate of an incapable person or guardian of the estate of a minor, and to exercise a power of attorney that has been given to it; and deal with unclaimed moneys.

One of the first and most interesting committees I served on when I was first elected to Parliament was the Public Bodies Committee. We looked at the whole nature of the Public Trustee and the Public Guardian. Many years later, it is still a fairly vexed issue if one falls under the ambit of those organisations. I am sure all members of this Chamber have had to deal with a matter through one of those organisations on behalf of a constituent. The Commonwealth legislation allows the Australian Securities and Investments Commission to make a compulsory transfer determination when a trustee company ceases to be licensed or authorised. The determination transfers estate assets and liabilities from the former licensee to another licensed trustee company.

There are no equivalent provisions in the New South Wales Trustee Companies Act 1964, and in similar circumstances in the past trust assets and liabilities have been transferred to another trustee company by special legislation. The Commonwealth bill does, however, provide that the Australian Securities and Investments Commission can only make a compulsory transfer determination if certain State or Territory legislation has been passed to facilitate the transfer. The bill facilitates such a transfer. The bill also amends the Duties Act 1997 to exempt any such compulsory transfers of estate assets and liabilities from State stamp duty. An exemption is appropriate given the compulsory nature of the transfer and has previously been included when a compulsory transfer was engendered by State legislation—for example, the Burns Philp Trustee Company Limited Act 1990. The creation of a national market is likely to increase competition in the personal trust market.

Mr Barry Collier: At the most.

Mr ALAN ASHTON: We hope it will do so. Consumers, including persons appointing trustee companies in their will, stand to benefit from this through improved service, possible reductions in price, and possible new products. Consumers will also be protected through new consumer protection measures, including disclosure requirements and an external dispute resolution scheme, and the Australian Securities and Investments Commission licensing regime that will minimise the risk of ineffective management of trust assets.

The national scheme will remove the unnecessary regulation burden on trustee companies that arises from the need for them to be licensed in each State and Territory, and the different reporting requirements in each State and Territory. In other words, the bill will reduce red tape, which I am sure members on both sides of the House agree is a good thing. The bill removes barriers to entry into the market and should improve competition. I commend the bill to the House. I understand the Opposition also supports the bill, and I thank it for that.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [5.06 p.m.], in reply: I thank the members for Epping, for Smithfield and for East Hills for their contributions to the debate. I note that the Opposition does not oppose the bill. The Trustee Companies Amendment Bill 2009 will enable a smooth transition to the Commonwealth assuming responsibility for the regulation of trustee companies. Commonwealth legislation will require that trustee companies have trustee company Australian financial services licenses. The bill repeals sections of the Trustee Companies Act 1964 that will be unnecessary or inconsistent with the Commonwealth legislation. It also amends the Trustee Companies Act 1964 so that companies will no longer be authorised to be trustee companies by being listed in a schedule to the New South Wales Act, but by being licensed trustee companies under chapter 5D of the Commonwealth's Corporations Act 2001.

Amendments to the Corporations Act establish a single licensing and reporting regime for trustee companies administered by a single regulator—the Australian Securities and Investments Commission. A single national regulatory scheme will benefit both business and consumers. It will eliminate the unnecessary regulatory burden on trustee companies, which arises from duplicate licensing, and reporting requirements in each State and Territory. It will remove barriers to entry and improve competition in the trustee company market. It will enhance consumer protection by applying the consumer protection regime for financial services from the Corporations Act to trustee companies. The New South Wales Government is pleased to introduce legislation to facilitate this important national reform. I commend the bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment

WATER MANAGEMENT AMENDMENT BILL 2009

Agreement in Principle

Mr PHILLIP COSTA (Wollondilly—Minister for Water, and Minister for Regional Development) [5.08 p.m.], on behalf of Ms Kristina Keneally: I move:

> That this bill be now agreed to in principle.

The bill was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 50 to 54 of the *Hansard* galley for that day. I commend the bill to the House.

Ms KATRINA HODGKINSON (Burrinjuck) [5.09 p.m.]: What a disappointing start from the Minister for Water, whose staff probably wrote the second reading speech for the member who delivered it in the other place. I lead for the Opposition on the Water Management Amendment Bill 2009, which amends the Water Management Act 2000 and the State Water Corporation Act 2004. The amendments have six main purposes. They give the Water Administration Ministerial Corporation and the State Water Corporation the power to install, operate, maintain and replace water meters. They extend the offence of taking water when metering equipment is not working to include these meters. They clarify existing powers that the Minister has under section 326 of the Water Management Act 2000 to order maintenance on, as well as installation of, meters.

They exclude the Water Administration Ministerial Corporation and the State Water Corporation from the requirement to hold approval to construct or use metering equipment. They allow certain notifications under the Water Management Act 2000 to be published on the New South Wales Government legislation website rather than in the *Government Gazette*. Finally, the amendments remove the Minister's legislative power under section 71ZA of the Water Management Act 2000 to prevent the trade of water out of an irrigation region over the set limit, or cap, and replace it with a regulatory provision such that the Minister can introduce a regulation to effectively reintroduce the 4 per cent limit.

The Liberals-Nationals Coalition will not oppose this bill, but that is not to say it is good legislation. The Opposition has several significant concerns with this legislation, which I ask the Minister to address in reply. When I say that we have several significant concerns, I refer there not just to the Liberals-Nationals Coalition but to the industry also. If the Minister had bothered to undertake any public consultation about this legislation he would know what I am about to say. When this legislation appeared in the Legislative Council I sent a copy of it and the second reading speech of the Parliamentary Secretary to many irrigation groups and water industry representatives.

The New South Wales Irrigators Council was aware that some legislation was in the wind but had not seen a copy of the text until I sent it to the council. Every other stakeholder I received a reply from said that my email was the first that they had seen or heard of this bill. The formulation of good legislation should involve seeking comment and response from the people that the legislation is going to affect. That did not occur in this case. I am sure Madam Acting-Speaker will recall the *Hansard* of question time on 25 September 2008 when newly elected Premier Rees stated:

> On day one of my premiership I said that I was going to rebuild people's confidence in the administration of this Government step by step.
>
> That means more accountability and more transparency.

The introduction of this legislation, stealthily and in apparent secrecy, raises the question of why the State Labor Government did not seek any public consultation about how the changes in this legislation would affect the lives of water users in regional New South Wales. The water metering part of this legislation will allow access to Federal funding of about $250 million to roll out metering projects in the Murray-Darling Basin and the Hawkesbury-Nepean River. I have received comments from Mr Anthony Couroupis, the General Manager of Murray Irrigation Limited, in which he made several comments about the legislation. Murray Irrigation is

supportive of the introduction of compliant meters to water diversions and groundwater extractions. However, it believes irrigation companies should not fund the current and future costs of implementing these requirements and any ongoing maintenance.

Irrigation companies are already required to deal with their own internal metering. In the case of Murray Irrigation, its bulk diversion off-take flows are already measured using best practice technology. Given that, will the Minister give a commitment that Murray Irrigation will not be required to replace these meters when this legislation is enacted? I remind the Minister that Murray Irrigation Limited already provides diversion data to the State Water Corporation on a daily basis, and it is currently negotiating to provide the corporation with real-time access to this data. No cost savings will result if the State Water Corporation takes ownership of the bulk diversion metering assets of Murray Irrigation Limited. Murray Irrigation has informed me that the State Water Corporation has not approached the company with any proposition to take over ownership of the meters at the company's diversion points. These meters form part of Murray Irrigation's asset base. The legislation has raised a concern that these meters could be taken over by the State Water Corporation. If that is to occur then the company must be compensated. I seek the Minister's response to this matter.

Murray Irrigation also has concerns that while the inclusion of section 372A (3) (c) provides scope for the Water Administration Ministerial Corporation "not to exercise such functions to the exclusion of any other person", it is unclear as to what the current intentions of the State Water Corporation are with respect to this power. I seek the Minister's clarification of this issue. Further, if Murray Irrigation Limited were required to hand over its current metering assets to the State Water Corporation it may increase Murray Irrigation's costs in the form of Government water charges. This could occur if the value of the metering assets were included in the rate of return or profit made by government on the value of the regulatory asset base, as currently determined by the Independent Pricing and Regulatory Tribunal.

Murray Irrigation also seeks clarification as to who is to be required to pay for the meters the State Water Corporation intends to upgrade and maintain as a result of this funding. Murray Irrigation Limited believes that it is unreasonable to expect those users who currently have compliant meters to pay for those who do not. It has further concerns about whether these proposed amendments provide irrigation companies with appropriate compliance powers in relation to internal water theft and meter tampering. The above issues raise quite a bit of uncertainty about this legislation from just one irrigation company.

I recently also received comments on this legislation from a hastily convened meeting of Murray Irrigation Limited, Coleambally Irrigation, Western Murray Irrigation and Murrumbidgee Irrigation. They are concerned that this legislation provides the State Water Corporation with the power to unilaterally take over without compensation meters owned and paid for by irrigation companies. They make the point that they have already replaced take-off meters with new generation technologies. These systems have been audited and approved by the Office of Water. These meters already provide real-time data sharing between irrigation companies and the State Water Corporation, thus there is no cost saving to be made with control of the sites by the State Water Corporation.

These four irrigation companies fear that the involvement of the State Water Corporation will result in a less efficient service than the service provided now, and they believe that this legislation is likely to result in an increase in charges due to the need for a return on the regulatory asset base. They contend this would not occur if these assets were to remain in irrigation corporation ownership. They believe that the transfer of meter assets does not make good sense and they can see no good reason to hand over these assets. I seek the Minister's response to this particular matter. Murray Irrigation Limited, Coleambally Irrigation, Western Murray Irrigation and Murrumbidgee Irrigation have concerns that a serious omission from this legislation is that it contains no provisions to deal with the issue of water theft inside New South Wales irrigation companies. Will the Minister act to rectify this important anomaly?

Finally, Murray Irrigation Limited, Coleambally Irrigation, Western Murray Irrigation and Murrumbidgee Irrigation are concerned that the water savings programs being developed by the New South Wales Government in the Murrumbidgee Valley and other areas lack sufficient third party audit and stakeholder scrutiny. They state that verification of savings is a crucial step to ensuring that there are no third party impacts as a result of water savings projects. As regards the removal of the 4 per cent rule, they believe that removing the current provisions and replacing them with an order that enforces the cap to the exclusion of transformation will achieve nothing. They state that they cannot enforce usage inside irrigation corporation areas following transformation, and that they cannot prevent subsequent trade to a third party outside irrigation corporation areas following transformation. This legislation will ensure that if Victoria maintains its 4 per cent rule, then New South Wales irrigation corporations will be at a competitive disadvantage.

The Gwydir Valley Irrigators Association holds serious concerns about the proposed metering project, and believes it is time for the Government to actively engage them on the detail or risk outright opposition. Their main concern centres on the concept of so-called savings being created by accurate metering, and the proposal to return some of those so-called savings to the Federal Government. The 4 per cent trade limit by order does not directly affect the northern valleys but, on principle, the Gwydir Valley Irrigators oppose it, as they believe it is a restraint on trade and therefore an attack on property rights. I have just received comments from Namoi Water about this legislation. Namoi Water has concerns about schedule 2 item [4], which enables regulations containing provisions of a savings of a transitional nature to be made as a consequence of the proposed Act. On their behalf I ask the Minister to respond to their concerns that this will enable the creation of extra water entitlement licences and therefore dilute or affect the value of existing licences—which had been reduced under the water sharing plan.

This legislation also allows for the publishing of certain statutory instruments under the Water Management Act 2000 to be published on the New South Wales Government's legislation website rather than in the *Government Gazette*. In relation to these sections, Namoi Water considers that under the existing system this information is sufficiently available. It wishes to retain this avenue to receive information. Although the statutory instruments are to be made available on the Internet, why are they being removed from the *Government Gazette*? Why does the Government not retain both methods of communication? By doing so the Government would achieve the Premier's aim of improving access. There is no good reason to discontinue publishing statutory instruments in the *Government Gazette*.

I have sought comments from the New South Wales Irrigators Corporation about this legislation. It has informed me that it has not had sufficient time to formalise a position. It is concerned that this legislation has come to Parliament before the corporation had sufficient time to look at it and consider its impact on its stakeholders. Although the comments that have been made to me about this legislation are wide ranging, they are all underpinned by the fact that there has been little or no consultation. If there had been good communication between the various irrigators' councils and corporations and the Government, there would be no need for me to raise these questions in Parliament today. The Government has allowed insufficient time for effective consultation on matters that will pass into law with this bill. It makes a mockery of the commitment to accountability and transparency that the Premier made last year.

It is difficult to tell whether this legislation is good or bad. It obviously has been rushed through without affected stakeholders being aware of its existence. Next year we are likely to see a water management bill 2010 addressing many of the concerns I have raised today. Those concerns could have been identified and dealt with now if the Government had taken the time and effort to properly consult stakeholders. The matters could have been dealt with if the State Labor Government had remained true to the Premier's commitment to accountability and transparency. That commitment has now been shown to be baseless. The Opposition will not oppose this legislation, but I trust the Minister will respond to all my concerns in his reply.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [5.22 p.m.]: At the outset I extend my congratulations to the Hon. Phillip John Costa, Minister for Water, and Minister for Regional Development, on this far-reaching legislation. He has shown once again his grasp and knowledge of the Water portfolio and his great concern for the people around the State in the communities involved. I note the comments of the member for Burrinjuck about lack of consultation. I have specific knowledge about these matters and I can vouch that our irrigators and water stakeholders are among the most consulted community in this State. The consultation never ends. The problem is that we must move on to reforms rather than just continue the process of consultation.

Mr John Williams: How many water reforms have you had?

Mr JOHN AQUILINA: The member for Murray-Darling asks me about water reforms. I remind the member that I was the Minister for Natural Resources in 1986 and had responsibility for the Water Resources Commission. At that stage we were attempting to initiate reforms, which have had their gestation over the last two decades. Between 2001 and 2003 I was the Minister for Land and Water Conservation, when I introduced the 36 water-sharing plans around the State and negotiated extensively with irrigators, particularly in the Gwydir and Namoi valleys. I also tried to introduce the concept of environmental flows. The member for Murray-Darling may know that I introduced the concept of the establishment of water titles and the separation from land titles to which they had previously been tied.

Mr Kevin Humphries: Craig Knowles did that.

Mr JOHN AQUILINA: Craig Knowles took over from me and continued with that work. There are many reasons I am keen to support this legislation. The Government has consistently proven its commitment to implementing national water reforms to ensure an equitable and sustainable management of the State's water supplies. As is acknowledged Australia wide, New South Wales has led the national water reform process over the past two decades, going back to my first involvement as Minister with responsibility for the Water Resources Commission in 1986. This process has vastly improved water management, creating individual property rights over water—which I initiated and which was completed by my successor Craig Knowles—strictly regulating the volumes that can be used by rights holders and establishing a market for the trade of those rights.

In relation to consultation, which has been raised today, I remember the endless consultation that took place when introducing those reforms between 2001 and 2003. Everyone acknowledged it was a great thing to do but no-one wanted to do it. They wanted to continue talking about it. It is part of the process. Unfortunately, in the absence of an open market many of the world's developing countries are now struggling with rapidly depleting water supplies and some are possibly facing an ecological and health-related disaster in the coming decades. That was the case in New South Wales. Our water entitlements were equal to three times the volume of the sustainable water in the State. We had to renegotiate the rights and entitlements of irrigators and water users. Aquifers were going saline: they were not being replenished fast enough and we were using well beyond sustainability. Consequently we had to cut back on water usage. It was a painful but important process. We did it effectively through a process of continued consultation that resulted in action. That is what had to be done.

Sustainable agricultural production through water rights is more than just a catchphrase. Allowing individual property rights over water is a key policy response because it creates an incentive for users to improve the efficiency of their use and to apply their water to the highest possible value use. The New South Wales Irrigators Council, which has been referred to by the member for Burrinjuck, recently welcomed the release of the biennial report of the National Water Commission into progress towards a national water initiative. The report noted that New South Wales continues to be far in advance of other basin States in adjusting to sustainable water use. I know about the basin: I was a commissioner of the Murray-Darling Basin for approximately two years earlier this decade. In response to the report the New South Wales Irrigators Council stated:

> The full report clearly shows that New South Wales and the irrigation community in this State continue to be forward looking and act with the speed and certainty necessary to address a future with less water availability.

That is the reality. This is the driest continent on the planet, yet until recently we were using water as if it had no value at all, as if it were a limitless resource. Water in this country is very much a limited and valuable resource and we must be careful how we use it. The New South Wales Irrigators Council went on to say:

> Water sharing plans, the blueprint for sustainable water management in New South Wales, for individual valleys have now been fully implemented in our State.

That is a process with which I am proud to be associated. The council continued:

> Whilst some are now suspended due to unprecedented drought, their development and implementation ought be a model for other jurisdictions, particularly for our southern neighbours.

The New South Wales Irrigators Council, not the Government, said that. That puts paid to comments made earlier about lack of consultation. The New South Wales Irrigators Council is praising the New South Wales water sharing plans introduced by this Government. The endorsements do not stop there. Roger Bate, a Fellow of the American Enterprise Institute and the Institute of Economic Affairs, said:

> Australia's trading system along the Murray Darling Basin is the most sophisticated and effective example of water trading, and could be adapted to improve the lives of a large number of people around the world.

Again, Australia is held up to be a world leader in this area. In that quotation Mr Bate is referring to New South Wales because most of the Murray-Darling Basin is located in New South Wales, which comprises 56 per cent of the basin's area, making us the largest trading regime. In addition to establishing a world-leading trading regime, the New South Wales Government has invested heavily in addressing the problems in the basin. For example, we have assisted and funded the major irrigation corporations to improve their water efficiencies and land and water management practices. Since 1995 we have managed water extractions to a cap agreed through the Murray-Darling Basin Ministerial Council.

We have developed statutory water sharing plans for all the major regulated river systems that further bring down extractions to below the cap and specifically allocate water to the environment—an important concept that was unheard of 20 years ago. We have delivered water sharing plans for the major inland alluvial groundwater systems, which have reduced the amount of water that can be extracted, and, at the same time, we have assisted licence holders to adjust to these new levels, making sure that we do not return to our old ways of depleting underground water systems and making them saline and unusable for the majority of irrigators.

We have been a major partner and investor in the living Murray and Snowy initiatives, which have implemented water savings measures to return even further quantities of water to the environment. We have purchased water licences through the RiverBank program and dedicated the licences to the environment. We have conducted a major program of capping and piping the bores in the Great Artesian Basin to reduce water losses and prevent artesian pressure reductions—and what a task that was, going around telling people that we had to cap the bores on their properties and being faced with enormous problems trying to negotiate that process with the people in the far west of the State.

We have initiated substantial reform to secure the water rights of licence holders and we have made their licences a perpetual and marketable business asset—again, guaranteeing security of their water and security of the trading processes with those licences. We have assisted licence holders in adapting to changed crop markets and climate conditions through expanding their ability to trade both their annual allocation of water and their licences. Over the past few years, despite drought conditions and limited water allocations, record levels of water trading have been occurring, and so they should, because this is a way of maximising the efficiency of the use of water. There is no point having people sitting on water entitlements and not using them and other people wanting water entitlements and not being able to access them, particularly in times of drought and water restrictions. We can then trade and effectively ensure the most efficient use of the available water.

More than any other jurisdiction, New South Wales has been actively committed to improving both the health and future of our regional communities and industries through promoting sustainable water trading polices by allowing individual property rights over water under free market conditions. That did not exist 10 years ago. This bill is critical to the continuation of our reform process, recognising, of course, that that reform is an ongoing process. We are aware that we need to continue the process and this is another step in that reform process. It ensures that the rules and regulations applied here in New South Wales are consistent with those more recently enshrined in Commonwealth law. We recognise, of course, that rivers and valleys do not recognise State boundaries—they flow across—and the Murray-Darling Basin traverses four States. We need to ensure that we have compliance and consistency with both interstate and Commonwealth law.

Murray-Darling Basin water licence holders should have the same rights to trade their water entitlement regardless of which side of the border they are on. Equally, trade activities must be regulated in a consistent manner to ensure that regional communities and the environment are not negatively impacted. Therefore, we must balance the rights of licence holders with the needs of the broader Murray-Darling Basin community and the environment. This is a far cry from what used to happen up to a few years ago. In consultation with basin States, the Commonwealth has developed water market rules that will successfully strike this balance. Water market rules made under the Commonwealth Water Act aim to allow people who hold water rights as a member of an irrigation infrastructure operator to convert those entitlements to individually held entitlements. This will facilitate trade in those rights and will also allow those individuals to make better use of the right as collateral when seeking finance, which was absolutely impossible 10 years ago.

This principle is consistent with the National Water Initiative and is supported by New South Wales. It requires States to reduce barriers to permanent trade in water entitlements and to ensure a level playing field in the southern Murray-Darling Basin. If implemented well, trade will benefit New South Wales communities by enabling water to be used where it is of greatest value. The most efficient use of water is our aim. Successful water-dependent businesses will be able to access more water to sustain or expand their operations, despite expected declines in water availability due to drought and climate change.

As I mentioned earlier, the key point is ensuring that the trade in water entitlements does not negatively impact upon the broader community or the environment. Many of our rural communities have been built around our irrigation industries. A rapid exit of water entitlements from these regions could have disastrous flow-on effects for regional economies. To prevent this the National Water Initiative enables the States to place an interim cap on the volume of water that can be permanently traded out of all water irrigation areas. This cap is currently set at 4 per cent per year of the total water entitlement; however, work is underway to increase the cap with a view to removing it entirely by 2014.

In December last year New South Wales made the necessary legislative changes to enable trade out of irrigation areas in accordance with the agreed cap. However, the Commonwealth has approved water market rules that provide a more detailed framework for addressing the 4 per cent cap on trade and will administer these rules under the Commonwealth Water Act 2007. Therefore, it is appropriate that New South Wales acts to avoid duplication and confusion regarding the administration and enforcement of the 4 per cent cap on trade by removing relevant provisions from the Water Management Act 2000. That is what this bill does.

To date, the New South Wales water trade rules have ensured that this trade is carried out responsibly and in a manner that minimises impacts on regional economies and the environment. Now that the Commonwealth has approved national water trade rules it is appropriate that the Water Management Act 2000 be amended to make it clear that the responsibility for administering and enforcing water market rules now lies with the Commonwealth. For those reasons I support the bill and, again, I commend the Minister for Water.

Mr KEVIN HUMPHRIES (Barwon) [5.37 p.m.]: I speak on the Water Management Amendment Bill 2009. I acknowledge the Minister for Water in the Chamber, and thank God he and not the member for Riverstone is the Minister now. We are not sure whether the member for Riverstone was the Minister for Water or walking on water—all that heavy lifting he must have done. Hopefully, during my response today I will have the opportunity to bring a little semblance of truth to some of the issues to which the member for Riverstone alluded. The bill aims to confer power on the Water Administration Ministerial Corporation and the State Water Corporation to install, maintain and replace metering equipment; to clarify the powers to give directions as to metering equipment; to provide for certain instruments to be notified on the New South Wales legislation website rather than being published in the *Government Gazette*; and to make other consequential and minor amendments.

As the member for Burrinjuck, the shadow Minister for Water, informed the House earlier, we will not oppose the bill, but we want to highlight a number of key issues to which the member for Burrinjuck asked the Minister to respond. We have always said that the $250 million metering program for New South Wales as part of the Murray-Darling Basin Initiative was a good one. This project was part of the Coalition's response. The previous Federal Government worked in partnership with the State governments through the Council of Australian Governments to ensure that we had better infrastructure on the ground and proper metering and infrastructure so that any judgements, analyses, projects or programs instigated to achieve water reform, savings or efficiencies could be measured.

Part of that $10 billion scheme was the provision of decent infrastructure. It also acknowledged the lack of infrastructure in places such as New South Wales that would enable it to get a decent handle on where our water goes and how much is consumed, not only by landholders in stock and domestic arrangements or high security or general security water users, but also government instrumentalities that are responsible for managing that water, achieving environmental targets that had been sadly neglected and over allocating licences. I am referring to successive governments in this State.

Probably one of the very few things on which we would agree with the previous speaker is the fact that licences were over allocated. I am not referring only to general security licences but also to groundwater licences. The $10 billion which has been set aside and which is administered by the Federal Government is being used to address two other issues. One is the water buy-back scheme. We know that that is underway and that the Federal Government was probably not working as closely as it could have been with the New South Wales State Government.

As a result, significant amounts of general security water were being sold out of the State at an accelerated rate over 10 years to the point at which many rural communities—particularly those in western New South Wales, north and south—were feeling very vulnerable and the State Government lost grip of what was happening in some of those communities. While we did not support the moratorium, we understood why the Minister acted in that way. We encourage the Minister to be more engaged and to push the New South Wales cause further to ensure that the other States pay their way and share the pain in any water restructuring. The Opposition has never opposed the water restructuring program.

The other $3 billion-odd in funding was to be spent on modernisation and efficiencies in the system. To date the reforms that the member for Riverstone announced have been negligible. This is one of the few reforms we have seen from this Government—certainly in my time in this Parliament. We should have been metering water consistently for generations, and certainly since this debate began. We should be examining

modernisation and measuring where our precious water resource goes and who is using it. The irrigators with whom I deal have no issue with that. Other parts of that large funding resource are not being used appropriately. I am referring to off-river allocation schemes in places such as the Macquarie Valley, where there are several.

We are still dealing with the difficult issues that are impacting on our achievement of environmental targets. The money is there to buy back the water and there is money to help modernise those schemes. However, we are witnessing dithering at the State level with regard to licensing and the irrigators' ability to extract themselves from the scheme without compromising it. The last thing we want is to leave stranded assets around western New South Wales. If this Government is serious about food security and achieving efficiency gains under the more crop per drop schemes, any reform would reflect that need. The New South Wales Government should target with far more venom and conviction resolving the modernisation of the schemes. It will not resolve environmental outcome issues in places such as the Macquarie Valley. Members should remember that the majority of the marsh areas in that valley are held by private landholders and many of them are doing a far better job than some of our friends opposite.

Metering is a good idea and we should get on with it. However, much more significant reforms should be fast-tracked. Other schemes that are on the backburner are the sole responsibility of the New South Wales Government—although it has been seeking Federal support—and involve piping in New South Wales. That scheme targets the differentiation between stock, domestic and environmental water. There is too much confusion about stock and domestic water and what is an environmental flow to the point where it is very difficult to measure whether one is a stock landholder or an environmental planner in terms of being able to measure what goes where. I urge the Government to get on with the piping program in New South Wales.

The member for Riverstone alluded to the cap and pipe program. Water users in the Great Artesian Basin have particularly welcomed that program. The basin covers two-thirds of my electorate. I am sure that the Minister is aware that 200 water users turned up to a meeting recently held in Walgett. People were very concerned about the Government wanting to sell off more water from the basin. The member for Riverstone has made some conflicting statements, and that is why I said that it is good that the member for Wollondilly is now the Minister for Water. The cap and pipe schemes is one of the greatest water saving measures that has been implemented in the Great Artesian Basin, particularly given that the aquifers were being drawn down.

The program has proved that water can be recharged and that water pressure can be restored. Whether the water is charged from above or below is probably a matter of conjecture between scientists at the moment. However, New South Wales has not committed to the next round of Great Artesian Basin sustainability initiative funding. The Federal Government has said that it will commit for the next round of funding, but this Government has not committed to that water-saving initiative. It involves a partnership between the Federal Government, the State Government and water users. It is of fundamental importance in preserving the water aquifers in the Great Artesian Basin.

The Water Act 1912 was a licence entitlement, not a property right. The member for Riverstone did not bring that to fruition; Craig Knowles and John Anderson drove that process. The preservation of a property right was the result of the Federal Government's threat to hold back competition payments from New South Wales. The New South Wales Labor Government intended to remove those licences but provide no compensation. We want and need reform and we must manage our water resources more effectively. The Opposition does not oppose the bill, but we need to expedite those additional reforms.

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

PRIVATE MEMBERS' STATEMENTS

SEAFORTH VILLAGE PEDESTRIAN FENCE AND TRAFFIC ARRANGEMENTS

Mr MIKE BAIRD (Manly) [5.49 p.m.]: I draw to the attention of the House my electorate's concern about the Roads and Traffic Authority's proposal to build a pedestrian fence in Seaforth Village and the recent installation of a no U-turn sign without consultation. Local businesses and many residents became aware of the authority's intention to build a fence on Sydney Road, Seaforth only a few months ago. Plans were well advanced and would have been implemented had the community not mobilised and demanded to be informed and, ultimately, consulted. We understand that the fence has been proposed because of safety concerns. Indeed,

those concerns were stated by the Roads and Traffic Authority. It says that there have been several pedestrian incidents in the past five years. However, those concerns have not been well outlined to the community and the question remains whether they justify the swift action to install the fence, which will effectively cut Seaforth village in half.

I understand that the Minister for Roads has multiple priorities, but this is a critical issue in Seaforth. My community and I ask the Minister to ensure that the Roads and Traffic Authority listens to the community and, most importantly, seriously investigates every available safety option. It should commit to not pressing ahead without full community support. My fear is that this proposal is being pushed ahead before every safety option has been considered. I have received many concerns from businesses and residents. A business concern from Rocco Papalia, owner of the Trapani Cafe on Sydney Road, said:

> I confidently speak on behalf of all businesses and residents concerned that we passionately feel this fence will more likely than not signal the end of this little village. Without convenient accessibility to funnel local community support to our businesses and services, viability will be seriously compromised, and from there it is a flow-on effect. No convenience means little thoroughfare, which means little viability, which means more and more businesses/services ceasing to operate, which sadly leads to no Seaforth village. All you have to do is take a look at the amount of shops in this village displaying a "for lease" sign. The newly installed "no u-turn" sign has already affected our businesses, the proposed fence would be pretty much crippling for business and their livelihood.

From the residents' side, Michael Smellie from Seaforth, wrote:

> Of course pedestrian safety is important, however not at all costs. If there is a demonstrable case to improve pedestrian safety (and I understand that this not has been made certainly not to the Precinct), then what are the alternatives that have been looked at? If there were alternatives why were they eliminated?

Residents and businesses have not been consulted. I joined with members of the Seaforth precinct and local residents and business owners and asked the Roads and Traffic Authority to hold a public forum. It delayed the fence installation and held a public forum on 28 September, and we appreciate it doing that. The authority said it would only notify people in a 500-metre radius to the fence about the forum, so I wrote to all residents in Seaforth, because it is about the amenity of their village. Every resident of Seaforth has a right to know what the Roads and Traffic Authority is about to do. About 200 residents came along to the meeting and only one was in support of the fence. I know he is a good man but I do not agree with him on this issue, and certainly 199 fellow residents did not agree with him. The Roads and Traffic Authority agreed to take the community feedback on board and consult again before a decision is made.

Another meeting was held last month at which the authority said it was considering everything but other safety options should be paramount. This is what we are asking the Minister, to make sure the Roads and Traffic Authority goes through in detail every single safety option available. Of course safety is critical and paramount, but just as important is the need to balance residents' concerns, the viability of businesses and the community, which has the village at its core. Several alternative suggestions to improve pedestrian safety at Seaforth village have been made. They include installing a give-way sign for cars turning into Sydney Road from Manly Road, fitting speed reducers to the lane on the approach to this intersection and making Sydney Road and the space of the village a 40-kilometre speed zone. The Minister for Roads listened to concerns raised by the community about bus timetable changes and he amended the timetable. He has also been helpful with regard to the fast ferry. In relation to this he needs to listen to the community and make sure that everything is considered.

The other issue is the no U-turn sign, which was recently installed by the Roads and Traffic Authority at the eastern end of the shops before the lights—again, without consultation. At the public meeting the Roads and Traffic Authority representatives advised that the no U-turn sign was erected after only two telephone complaints to the effect that drivers were not expecting vehicles to do a U-turn there. A couple of telephone complaints do not justify such action. This sign has had a dramatic impact on businesses. This is a serious issue threatening the viability of Seaforth Village. A butcher in Seaforth, David Head, is facilitating a petition against the fence. We seek assurances from the Minister for Roads that every possible option is considered to ensure safety in Seaforth but at the same time the amenity remains.

SCHOOLS SPECTACULAR

Mr PAUL GIBSON (Blacktown) [5.54 p.m.]: It has been my pleasure for many years now to attend the Schools Spectacular. It has been going for 26 years and I think I have been fortunate enough to attend every year. The mainstay has been Mary Lopez. Mary was the first director of the show and for the next 25 years

continued in that role. It is a magnificent display of what we have in the New South Wales public school system. Education is not only about maths, science and English. It is about bringing out the best in all of us, teaching young people what life is all about, and giving them the confidence and the know-how to be good at what they are and at what they want to be in life. Talent is found in many forms, and the 3,000 young performers who participated in the schools spectacular gave us song, dance, music and a great array of young, fit athletes.

This show was super. There was no bad language, no sex, no double meanings, just plain straight-out young Australian talent that would rank equal to any in the world—and the largest choir ever seen assembled on any stage in the world. The Deaf School performed, as did our indigenous brothers and sisters, tap dancers who would make Fred Astaire look like a novice, and musicians who played wonderful music all through the night. People who believe we have problems in public education should attend the Schools Spectacular to see how great it really is. I am sure many members have done so. I was proud to be an Australian. These young people are great examples of how we should behave and how to enjoy life.

The show incorporated more than 3,000 performers from hundreds of public schools in New South Wales—the highlight of the education program. The show is a legacy to Mary Lopez and the people who pioneered this great event over the years. The other night the show started with a magnificent national anthem. The theme was "Reaching out", to encourage all of us to leave our shores, to cross boundaries, to look in all directions, to look at what we are and to recognise what we have. The stars on the night included—I apologise to all those I do not mention—Melanie Dyer from Inverell High School, James Flannagan from Newtown High School, Nicholas Gentile from Jamison High School and Jodie Goodwin from Conservatorium High School.

Other stars included Tayla Jarrett from Blaxland High School, Nicholas Kelly from Duval High School and Frances Kitson from Narara Valley High School. There were plenty of other stars such as Anja Nissen and her sister Pia Nissen from Winmalee High School and Abraham Rounds from Newtown High School. Angel Tupai has been there for the past five years—and what a magnificent performer she is; she is an entertainer and a singer with a great future. Other performers included Brooke Williams from Campbelltown Performing Arts High School, Evelyn Willie from Wellington High School, Tynan Wood from Hunter School of Performing Arts, and many more.

These people entertained us through the night with songs such as *One Mob Corroboree*, *Beautiful Day*, *Down to the River to Pray*, *Let the River Run*, *Mythodea*, *Magnificent Men in Their Flying Machines*, *Come Fly with Me*, *The Greatest View* and *Somewhere over the Rainbow*. The choir performing that song really brought a tear to my eye. Other songs included *42nd Street*, *Reach Out*, *Will the Sun Never Shine Again*, *Auld Lang Syne*, *Nothing like a Dame*, featured songs from *Aladdin*, *Love Story* and *Circle of Life*, and *You're the Voice* in a wonderful finale.

I congratulate not only the children who participated but also the teachers who give their time willingly and for free. They only have one or two rehearsals together. It is a magnificent sight, with over 3,000 students on the floor of the Entertainment Centre. They never bump into each other or fall over. One would swear blind that they had been doing this day in and day out for years. They are a great credit to themselves, to their teachers and to their parents. On behalf of everybody in this Chamber I say to all the young people, the future of this nation: Congratulations and a very big thank you.

ACTING-SPEAKER (Mr Thomas George): I am sure all members would join the member for Blacktown in supporting the Schools Spectacular. He thoroughly enjoyed the concert—I have heard nothing but great reports about it.

BELLINGER RIVER DISTRICT HOSPITAL

Mr ANDREW STONER (Oxley—Leader of The Nationals) [5.59 p.m.]: This evening I raise concerns regarding the Bellinger River District Hospital in my electorate. On 21 October 2009 the North Coast Area Health Service held a community information forum on the future of the hospital and locals took this opportunity to raise the well-founded concerns that the State Labor Government has earmarked their hospital for closure by stealth. The reasons for the concerns are quite sound. Last year, 2008, there were 50 births at the Bellinger River District Hospital but, despite numerous local women wishing to give birth there this year, there has only been one birth so far.

The reasons for the substantial drop in births at the hospital over the past 12 months are quite simple: When nurses with midwifery skills left the hospital for various reasons—they moved away or retired—the North

Coast Area Health Service hired single certificate nurses who do not have midwifery experience. One might think that was a deliberate move by the area health service to leave the hospital without maternity facilities, certainly it is without skills because of the recruitment policy. Furthermore, the North Coast Area Health Service has not advertised for midwives for the hospital in recent times. As a result, maternity services at the hospital have been allowed to run down, despite a clear need for midwives at the hospital.

Heavily pregnant women have been forced to travel to give birth at other centres, particularly Coffs Harbour, where the hospitals have nurses with midwifery experience. These mothers are rightly angry. They cannot give birth to their babies at the local hospital near their loved ones because of the scarcity of nurses with midwifery experience. They are worried that they might go into premature labour on the Pacific Highway or even be involved in an accident along what is without doubt one of the most dangerous roads in the nation.

The latest Minister for Health, Carmel Tebbutt, has not ruled out the closure or reduction in medical services at Bellinger River District Hospital despite numerous opportunities in this place to do so. When the disastrous mini-budget was released a little over 12 months ago Premier Nathan Rees proclaimed that it "protected frontline services to the families of New South Wales". We all know that the Premier is a repeat offender when it comes to being loose with the truth. His disastrous mini-budget axed 400 jobs in the North Coast Area Health Service. Local communities such as Kempsey, Coffs Harbour, Tweed Heads, Ballina, Lismore, Grafton, Maclean, Bellingen and Port Macquarie have all held rallies and meetings to show their anger about cuts to their hospital services and staffing.

Sadly, nothing has changed, other than yet another new Minister for Health, Carmel Tebbutt, who has stuck to the mistakes of her predecessors. During question time last month she admitted that the 400 job cuts on the North Coast were proceeding and that redundancies had been offered. The jobs of nurses and other front-line staff should not be cut due to State Labor's failure to manage the Health budget. The people of the Bellingen Valley, all the way up to the Dorrigo Plateau, depend on the services in place at the Bellinger River District Hospital. Doctors at the hospital have repeatedly aired their grave concerns about the future of the hospital, given the surreptitious activities of a clinical task force and its secret report recommending cuts and possibly closure of district hospitals other than Bellinger. They are worried that the State Government will close the Bellinger River District Hospital by stealth by claiming that it is not safe to offer certain services.

That is sheer madness when one considers that the base hospitals at Coffs Harbour, Port Macquarie and Lismore are already seriously overstretched. Their emergency departments are clogged and bed occupancy is at 100 per cent and more. Once again I call on the latest Minister for Health, Carmel Tebbutt, to rule out closing or cutting services at Bellinger River District Hospital. We need change and change for the better is possible. The Liberals and The Nationals will deliver real change on the North Coast and for the rest of the State. I urge the people of the North Coast and the mid North Coast to visit our website, *www.savenorthcoasthospitals.com.au*, and sign our online petition, which calls on the New South Wales Labor Government to reverse this dreadful decision to axe 400 jobs in the North Coast Area Health Service.

WIN TELEVISION

BANDAGED BEAR BENEFIT NIGHT

Ms NOREEN HAY (Wollongong) [6.04 p.m.]: I draw to the attention of the House a number of exciting events that have taken place in my electorate of Wollongong recently—WIN Television's milestone of 30 years in the Illawarra and the Tenth Anniversary Bandaged Bear Benefit Night. Both celebrations are worthy of note as WIN Television and the Bandaged Bear Benefit Night have each provided something special to the people of the Illawarra for many years.

WIN Television, the world's largest privately owned regional television network, reaches more than 5.2 million viewers across six States of Australia and the nation's capital. Its transmissions span from Cairns to Hobart, into South Australia, and from Albany to Kununurra in Western Australia. The station provides what is considered the most comprehensive news service in Australia, producing 18 individual 30-minute local WIN news bulletins every week day and one 60-minute bulletin seven days a week from 28 newsrooms and bureaus across the country. Many people would not realise the diversity of the network. WIN does not only provide broadcasting services to local communities. It is also an extremely diversified company, which has grown considerably and consistently since Mr Bruce Gordon purchased it in 1979.

WIN owns 24 per cent of the St George Illawarra Dragons via a partnership with the Illawarra Steelers Club and has naming rights of the WIN Jubilee Oval at Kogarah and WIN Stadium in Wollongong. It also

contributed half the cost of the $8 million upgrade to the 6,000 seat northern grandstand at WIN Stadium. I also understand that both Bruce and his son, Andrew, are avid Dragons supporters, like me. I am pleased to say that I had the pleasure of Andrew's company at a recent home game victory over the Sea Eagles. I take this opportunity to acknowledge the staff at WIN Television. The newsreaders, reporters, camera men and women, and receptionists always conduct themselves with the utmost professionalism. They are courteous and I believe have a genuine interest in the community. I congratulate them on a wonderful milestone and I look forward to their next 30 years.

The other occasion of note was the Tenth Annual Bandage Bear Benefit Night, which is considered by many as one of the State's leading fundraisers. This year's benefit was held at the West Illawarra Leagues Club and raised almost $300,000 to support cancer research at Westmead Children's Hospital and for sick and disabled children in the Illawarra region. One of the main beneficiaries at this year's function was 12-year-old Dapto girl Mecenzi Howard, who suffers cerebral palsy. In what was a very emotional surprise the Howard family received a wheelchair modified Kia Carnival donated by Jerry Fiscal of Allfab, Nick Mandranis from K&R Fabrications, Phil Critcher and Ken Smith from KJ Industrial Scaffolding, the Disability Trust and the Variety Club.

I acknowledge the generosity of West Illawarra Leagues, which made an initial donation of $50,000 and then, after winning the major car raffle, donated the car back and the vehicle was auctioned for a further $25,000. I acknowledge also the efforts over the past 10 years of Nick Mandranis, Michael Schafe, Matthew Carr and, of course, organiser Leigh Stewart. Without these three people the night would not have been the wonderful success that it was and, more important, probably would not happen at all.

Australian icons Max Walker, Arthur Summons, Maria Venuti, Tim Farriss and Ada Nicodemou were in attendance to lend their support. A special mention must be made of an extremely talented local girl, Georgia Kollaras, who wowed the crowd with her superb singing. She has a magnificent classical voice and those in attendance were really impressed with this young lady. Over the past 10 years 3,500 people have raised an amazing $1.8 million and the Kids Fund alone has spent $624,189 on 331 pieces of equipment for 176 Illawarra children. I express congratulations to the club, staff and everyone who participates in this fundraising. We appreciate the wonderful efforts they have made. I thank the people who attended on the evening and dug deep to help those in our community who are less well off and need all the assistance they can get. I congratulate all the volunteers, including those throughout the State.

CURRAWONG BEACH SITE SALE

Mr ROB STOKES (Pittwater) [6.09 p.m.]: I bring to the attention of the House a very sad matter I have become aware of in the last half an hour: Unions New South Wales has, by virtue of a joint venture agreement, sold Currawong Beach, in Pittwater—that beautiful, unique, heritage bushland site—to property developer Eco Villages Australia. This event is appalling for the people of Pittwater. It demonstrates a complete failure on the part of the New South Wales Government to show leadership by taking the opportunity to buy back this unique site for the people of New South Wales.

This was a once-in-a-lifetime opportunity for the Government to do something really special—to buy back a site with real meaning, real heritage significance and real environmental value, surrounded as it is by a national park that has just been recognised as a Commonwealth heritage place because of its outstanding biodiversity values. A coordinated approach by the Department of Planning, the Department of Lands and Pittwater Council, together with financial support already committed by the Pittwater community and the Friends of Currawong, could have, with a bit of leadership, seen the Government step in and use its close relationship with the union movement to negotiate a purchase of the site. But it seems that Labor is too distracted with its own internal leadership woes to do something positive and visionary that would have real, tangible environmental and social benefits for the people of New South Wales.

The sale simply demonstrates why this Government will go down in history as the Government of wasted opportunities. Future generations will not thank this Government for what has transpired this afternoon. However, it puts one thing in clear focus: There is now no doubt that, whatever Unions New South Wales might have been established to do and regardless of any heritage of service to working people that Unions New South Wales might claim, Unions New South Wales—under the leadership of first Michael Costa, then John Robertson and now Mark Lennon—has now been morphed into nothing more than a property developer. Rather than being motivated by concern for the welfare of working people in New South Wales, the unions have entered into a joint venture with a property developer that has been a major donor to New South Wales Labor,

using the extraordinary ministerial discretion available under the notorious part 3A of the Environmental Planning and Assessment Act, to seek the rezoning, subdivision and residential desecration of a unique waterfront bushland heritage site.

Unions New South Wales has become a property developer first—focused on deals with developers, not on the real needs of working people. It is now clear that the first test of the new prohibition on developer donations must be for the Premier to rule out ever again taking money from Unions New South Wales. That money is now tainted, laundered as it has been through the device of an option to purchase workers' land by a wealthy eastern suburbs developer company. If this deal has gone through on the basis of a payment of $15 million, which is the figure talked about in the media, then something is seriously amiss. The Independent Hearing and Assessment Panel on Currawong made it abundantly clear that there is virtually no commercial value in Currawong as a development site. The geographic, infrastructure, environmental and heritage constraints of the site mean that its value must be half of that quoted in the media.

Of course, because Unions New South Wales is a private business, its records and the deal with the developer will remain hidden from public view. But I inform this House now that if $15 million has passed hands, something is not right. And this deal should not be hidden from public view—first, because at the time the deal was considered Unions New South Wales had a representative on the New South Wales Heritage Council. Unions New South Wales has benefited from 60 years of not paying land tax on that site—a deal that would have gained Unions New South Wales millions of dollars worth of value, since it is now treating the site not as something it holds in the public interest but nothing more than a site to be flogged off to a property developer mate. Secondly, at the time this deal was negotiated the current Minister for the Environment was the head of Unions New South Wales. He was the bloke who said, "I can put D9s and chainsaws through Currawong if I want." And he is now the environment Minister of this State!

I give a word of warning to anyone who thinks they can get a greasy deal through under the radar. Will the Pittwater community and the wider community simply shrug their shoulders and say, "Well, we tried", and then go away? No, that will not happen. We will not go away. This fight is not over. It will go on and on, until Currawong is forever saved from the scourge of greed and self-interest that threatens it with dismemberment and desecration. The Pittwater community is united. They have been through many attempts to flog off this land, to the detriment of many and the benefit of a few. I will not go away, Shane Withington will not go away, and the Friends of Currawong will not go away. [*Time expired.*]

SCHOOLS BELONGING PROGRAM

Mr ALAN ASHTON (East Hills) [6.14 p.m.]: Today I inform the House of a most successful and innovative program being conducted in the East Hills group of south-western Sydney region schools. It is called the Belonging Program. I visited East Hills Girls Technology High School on Monday 16 November 2009, together with the Minister for Education and Training, the Hon. Verity Firth, to learn firsthand how the program works to assist Aboriginal students feel more at home and to have a greater sense of "belonging" in schools where the number of Aboriginal students enrolled is small. In addition to the comprehensive program initiated at East Hills Girls Technology High School, all Aboriginal students enrolled in schools in the East Hills group south-western Sydney region participate in the Belonging Program. In 2009 this has involved approximately 83 secondary and 106 K-6 students—189 in total.

The Belonging Program for all East Hills schools was developed in 2005 to assist Aboriginal students in schools with smaller enrolments of Aboriginal students. The program aims to develop leadership skills in secondary students, and connections for all Aboriginal students with the broader Aboriginal community and culture. Secondary students participate in leadership workshops and are then involved in mentoring younger students on whole-day activities focusing on various Aboriginal cultural aspects. As part of the program, additional activities to support Aboriginal students are conducted in East Hills schools.

This year a K-6 school has introduced a choir program in which students perform the National Anthem in the Dharawal language. This culminated in all students at the school singing this version of the National Anthem at their school presentation night as part of the school's support for reconciliation. Recently I attended a presentation at Revesby South Public School at which the students sang the National Anthem in the Dharawal language. Other school-based programs have included an oral history project involving local elders, National Aboriginal and Torres Strait Islander Day of Observance Committee [NAIDOC] activities, and transition support from years 6 to 7.

While there is still much work to be done, the achievement gap between Aboriginal students and all students in the East Hills school education group has been reduced in a number of the areas measured by the National Assessment Program—Literacy and Numeracy [NAPLAN]. In some schools the achievement of Aboriginal students in 2009 is above the average achievement of all students. Also in attendance at the presentation at East Hills Girls Technology High School were Cheryl Best, the School Education Director for the East Hills region; Cindy Berwick, the President of the Aboriginal Education Consultative Group; Veronica Necyporuk, the Principal of East Hills Girls Technology High School; Annette Brunt, the deputy principal of the school; Leona Marlow, the school counsellor and district Belonging Program coordinator; and Carol Brown, a parent and Aboriginal education worker.

The Minister and I were presented with a detailed account of how the Belonging Program is making a great difference at East Hills Girls Technology High school and other schools in the East Hills district. We also had the opportunity to listen to the personal accounts of a former student and three current students involved in the program. I was greatly impressed by the fact that these young students told of the growing confidence and the sense of real "belonging" they felt through the program at the school. I was also impressed that they were so articulate and showed no lack of confidence or enthusiasm in impressing a group of members of Parliament and departmental bureaucrats regarding the value of this course to them.

As many members of this House are aware, before my election to this place I was a schoolteacher. Indeed, I taught Leona Marlow when she was a student at Busby High School. I am proud of what she is doing for students in the government secondary school system, and particularly in the Belonging Program for Aboriginal students. Another former Busby student of mine, Brad Mitchell, is doing an excellent job as Principal at St Joseph Banks High School in Revesby. I make this point because in any school students have to feel that they "belong", that they fit in and, despite some occasional difficulties, that they can cope.

Busby High School was not the easiest school to teach at. The school had 1,400 students and was made up mostly of demountable buildings. However, those students got through school and are now achieving senior positions in the education department. The small number of Aboriginal school students in some areas must face real difficulties, but the Government, the department and the dedicated principals, staff and students are doing great work in the Belonging Program for Aboriginal students. I congratulate all those involved in the Belonging Program, and I encourage the Minister and the Treasurer to continue to financially support the program in my district schools.

JOHN AQUILINA: I seek the leave of the House for the members representing the electorates of Myall Lakes, Camden, Bega, Northern Tablelands and Dubbo to make private members' statements.

Leave granted.

MYALL LAKES ELECTORATE HEALTH SERVICES

Mr JOHN TURNER (Myall Lakes) [6.19 p.m.]: I bring to the attention of the House matters pertaining to the shortcomings in my electorate in relation to health services, particularly at the Manning Rural Referral Hospital. The hospital is currently deficient in three areas. It has no stroke unit, no oncology services, and no ear, nose and throat specialist.

The Stroke Foundation recently completed a national audit of stroke services. The audit aimed to measure the nature of resources available to support stroke care that is proven to improve outcomes. That audit revealed that there is no stroke unit at Manning Rural Referral Hospital. A stroke unit is a geographically defined ward area in which care is provided to stroke patients by a specialised multidisciplinary team. A stroke unit provides one of the most powerful treatments for stroke and it is recommended for all stroke patients according to the Stroke Foundation. Stroke units were recommended in 86 hospitals around the country—those recommendations were for large hospitals. The stroke audit also identified that stoke units were absent in 22 of the recommended sites, and one of those sites was the Manning Rural Referral Hospital.

There is also no full-time oncologist at the hospital but 45 clinics are held per year—less that one per week. That creates great hardship for people from my electorate seeking oncology and chemotherapy treatments. It means that patients have to travel to Newcastle to receive treatment. Two of my constituents who have recently contacted me about their difficulties epitomise the problems being experienced overall by the people of the Manning-Great Lakes area in not having a full-time oncology service. The first letter I received

was from Mr Barclay who, sadly, has suffered from two bouts of bowel cancer. Mr Barclays's surgeon in Forster recommended that he undergo a PET scan in Newcastle. It is approximately 170 kilometres from Forster to Newcastle.

Mr and Mrs Barclay travelled to Newcastle and waited for more than an hour after the appointed time, only to be told that the doctor they were to meet was not at the clinic and that the results of his PET scan were not available. Mr and Mrs Barclay were devastated. They then travelled another 170 kilometres back to Forster. The next morning it was confirmed that Mr Barclay had a secondary cancer and a further appointment was made for the following week. The next week they began the drive to Newcastle again but when they were about 40 minutes from Newcastle they received a call to say that the doctor would not be up to see them. They then turned around and returned to Foster. Imagine the devastation they must have felt. Mr and Mrs Barclay have asked me to call for the appointment of a full-time oncologist at the hospital, which I endorse. Pam Sunderland wrote to me a few days ago in relation to oncology services. I will read her letter on to the *Hansard:*

> I am writing to you to voice my frustration with the health system in regard to providing oncology services to the Manning Rural Referral Hospital in Taree. I have had major surgery for cancer followed up with intensive chemotherapy treatment for the past three years.
>
> Since I was first diagnosed I have been forced to travel to Newcastle many times for follow-up treatment and to access oncology specialists.
>
> The travel when one is not feeling well is an added and unwelcome burden and I feel country patients deserve better.
>
> The health system is failing us badly and I am asking for your help to put pressure on the State Government to rectify the situation of adequate funding.
>
> I was to see the oncology specialist in November but the appointment has been cancelled now for the third time—

That is in Newcastle, of course—

> I have just received notification they can see me on the 23 December in Newcastle, this waiting time is just added stress that one does not need at this time.
>
> I have immense praise for the staff working in oncology at the hospital in Taree. They feel totally frustrated with the situation as well.

I raised some questions about this in this Parliament in June, only to be told by the Minister that the Government is trying to recruit an oncologist, but still nothing has happened.

A fully qualified ear nose and throat specialist who is working in the private sector is ready and willing to fill a vacancy for an ear nose and throat specialist at the hospital, but the area health service has not agreed to fund that position. We need such a specialist because the only places we can access an ear nose and throat specialist are Port Macquarie and Newcastle. There is a large Aboriginal population in the area, some of whom suffer from glue ear. They also require the services of an ear nose and throat specialist. Clearly there are deficiencies at the Manning Rural Referral Hospital, which I ask the Government to address.

MAGDALENE CATHOLIC HIGH SCHOOL

Mr GEOFF CORRIGAN (Camden) [6.23 p.m.]: Last Saturday night 28 November 2009 it was my great pleasure to attend the year 12 formal of Magdalene Catholic High School held at the Cube at Campbelltown Catholic Club. By my calculation, this was that school's sixth year 12 formal. It is always a pleasure to attend the year 12 formal, where the young people look fantastic in front of their very proud parents. Magdalene Catholic High School is a systemic co-educational Catholic high school, established by the Diocese of Wollongong in 1999 to serve the parishes of the western Macarthur region. The feeder parishes for Magdalene include St Paul's, Camden, incorporating St Clare's Narellan Vale and Leppington, St Anthony's, Picton, and St Aloysius, The Oaks.

Magdalene opened in 1999 in temporary accommodation on the Mater Dei site, occupying what was then known as the Polding Retreat Centre. The school commenced operations with 86 year 7 students, five teaching staff, an assistant principal and principal—I will return to the principal in more detail shortly—supported by two school support staff, one part-time grounds person, and a parent volunteer as canteen manageress. Brother Joseph Crowley, a Patrician Brother, joined the staff early that year in the role of home-school liaison officer.

In the same year the diocese purchased the current site in Smeaton Grange from the Patrician Brothers. The current property was a part of a larger parcel of land formerly used as a dairy farm. It was purchased by the

Patrician Brothers in 1961 and first used as a novitiate and, later, as a retreat centre. Through occupying the Patrician site, and the input provided by Brother Joseph during the school's formation, strong links were forged with the Patricians, now reflected in the Patrician library and Brother Joseph Crowley Oval. Brother Joseph Crowley was a wonderful man whose funeral I attended some years ago.

The year 2004 was an important milestone for the school. In that year the first year 12 group sat the Higher School Certificate and graduated from Magdalene. In the same year the final construction stage was completed of the creative and performing arts block and the sails quad, which saw the completion of learning and teaching facilities for the school. In 2008 the first six-stream cohort will reach year 12, giving the school a total population of approximately 1,000 students, supported by 63 teaching staff and 18 school support officers. Whilst still a young school, Magdalene has developed a reputation for the caring and supportive environment it offers, an inclusive nature, broad curriculum and the integration of information learning technologies across the curricula.

Magdalene has had one common feature or, more correctly, one fixture since it commenced—that is, Principal Alan McManus. It was my pleasure to meet Alan in 1998 when he came to Camden Council to talk about establishing a temporary Catholic high school in the Polding Centre. I was mayor at the time and, other than having gone a bit grey with the passage of time, Alan remains today the same gentleman and leader that I met 11 years ago. Alan has done a fantastic job in developing Magdalene. He has made it one of the leading schools in the Macarthur region, not only among the private schools but among the public schools also. Indeed, many of the public schools come to look at the wonderful information technology system that has been set up at Magdalene. I have had firsthand experience of the school and Alan, not only as a councillor and local member, but as a parent also, as my youngest child, Katie, attended the school.

At the formal last Saturday night I was shocked to learn that Alan is taking a promotion to the Catholic Education Office in Wollongong. Although he thinks he will be there for only 12 months, I am sure once he gets there and his excellent work is recognised, he will remain there, taking great steps forward. Typically, Alan told me that when Bishop Ingham contacted him to have a chat, he thought he was in trouble because he had suspended a child or some other matter. He certainly did not expect to be offered such an important job in the Catholic Education Office at Wollongong.

His promotion is well deserved, but Alan has become such an integral part of Magdalene that it is hard to imagine the school without him. I put on the record my great admiration for Alan's outstanding work in developing Magdalene. Not only has he developed the school, but he has also developed its teachers and deputy and assistant principals, many of whom have gone on to teach at other schools. One went to St Mary's Cathedral School, but his name escapes me at the moment. In fact, one of his assistant principals is returning to fill in for him next year. Alan has shown true leadership, and I am certain that he has met his aim, which is outlined in the principal's message on the school's website, that the young men and women who graduate from Magdalene Catholic School will be of strong minds and gentle hearts.

WOLUMLA CENTRAL WASTE FACILITY PROPOSAL

Mr ANDREW CONSTANCE (Bega) [6.28 p.m.]: Over the past eight years the community of Wolumla has fought against a proposed central waste facility near its township. The Bega Valley Shire Council had initially purchased a block of land to develop what was to be a central waste facility, a block of land in open farm country in the middle of the Bega Valley. For many years now the community, quite rightfully, has fought to halt this proposal. On a number of occasions over the past four years the council has developed environmental impact studies, which have again shown a number of concerns in relation to the proposal. As a result, the council has been somewhat stymied in its approach.

On 12 November 2009 Bega Valley Shire Council lodged a development application for a central waste facility near Wolumla with the Joint Regional Planning Panel—a statutory organisation established by the Minister for Planning, Kristina Keneally, and designed in this instance to keep the community at arm's length from opposing the council's plan. The community has been given a 30-day period to examine the new application on exhibition from 18 November to 18 December. It is a busy time of the year for that to occur. The proposal, which is a regionally significant development under the major projects State environmental planning policy, will be assessed by a panel comprising three State Government-appointed experts and two local government representatives, who I understand will be two Bega Valley shire councillors.

The community wants the Labor Government to stop this development. In the first instance, they asked the Labor Government to find an alternative site, preferably in a State forest. There are plenty of examples

around the State of tips located in State forests. The Labor Party was approached almost 12 months ago, but did nothing to address the community's concerns and identify another site. With the establishment of the Joint Regional Planning Panel, the council will not have responsibility for consent of the project. It will go to, in essence, a State-established panel for assessment. I call on Kristina Keneally and the Labor Party to do everything possible to stop this project.

The community has raised a number of concerns about this proposal, including possible contamination of the Bega River catchment, wind-blown litter, decreased property values, health issues from dust and odour, loss of aesthetics, noise pollution, destruction of Wanatta Lane treescape and wildlife corridor, increased traffic flow along Wanatta Lane and surrounding environs, concerns for stock on surrounding properties, impact on lifestyle and increased vermin. Whilst the council has been proactive and has held meetings, the community feels its concerns are not being heard. The assessment by the Joint Regional Planning Panel is further evidence that the community will not be heard in this process.

It is important that the Minister for Planning and the Minister for Climate Change and the Environment intervene and ensure a more appropriate location for the tip. It is no longer a matter for the council and the councillors. It is now a completely political issue because it has been referred to the Joint Regional Planning Panel, a creature of the State Government. It is up to Minister Keneally to step in and the Minister for Climate Change and the Environment not to issue a licence for this proposal. They must work with the community to identify a more appropriate site so that council has an alternative option for this centralised waste facility. Many years ago the council wanted the State Government to be involved, but the Government refused. With the referral of the proposal to the Joint Regional Planning Panel, the Labor Government has an opportunity to be involved and to refuse this development in the interests of the Wolumla community.

[*Business interrupted*.]

DISTINGUISHED VISITORS

ACTING-SPEAKER (Mr Thomas George): I welcome to the gallery Professor Jim Barber, Vice-Chancellor of the University of New England. I now call the Chancellor of the University of New England and Speaker of the Legislative Assembly.

[*Business resumed*.]

PRIVATE MEMBERS' STATEMENTS

RURAL FIRE SERVICE

Mr RICHARD TORBAY (Northern Tablelands—Speaker) [6.33 p.m.]: I also welcome Professor Jim Barber to the Parliament and to the alumni function that is about to be held in the Strangers' Dining Room for the mighty University of New England. Today I want to talk about the Rural Fire Service. It is now almost 10 months since the Victorian bushfires resulted in the loss of 173 lives and destroyed more than 3,500 buildings. That disaster has since paved the way for changes in how we respond to bushfires. Those changes include significant advances in warning systems to keep the community informed and, more importantly, in a position to make informed decisions about their own actions during bushfires. Unfortunately, in parts of New South Wales, particularly in my electorate, the bushfire season has arrived earlier than normal this year. Firefighters and support crews from across the State have been kept busy during the recent weeks of extremely hot and dry weather.

In my electorate of Northern Tablelands firefighters from the Rural Fire Service, Forests New South Wales and the National Parks and Wildlife Service have fought fires burning in the Glen Innes, Torrington, Tenterfield, Gwydir and Inverell areas. In all, more than 14,000 hectares, or almost 35,000 acres of farmland and bush, have been burnt out in the past couple of weeks. Traditionally, the main fire danger season in the Northern Tablelands is during spring. The usual summer rainfall generally lessens the threat. However, I have witnessed firsthand and been told that without significant rainfall in coming weeks the Northern Tablelands is facing a far greater bushfire danger risk than in previous years.

This week a break in the weather, with cooler temperatures and some showers, has reduced that threat, although firefighters remain on the ground at the Tungsten fire between Tenterfield and Torrington in the

northern part of my electorate. They are doing their best to consolidate a fire that has burnt out more than 1,000 acres of farmland and bushland. If the weather conditions remain favourable for the next few days, the hardworking firefighters will be able to return to their normal lives. The work undertaken by the mainly volunteer firefighting service in rural New South Wales cannot and should not be taken for granted. In the northern region alone there are almost 16,000 volunteers in 658 brigades across 31 districts looking after 157,000 square kilometres of property. They are incredible. They make themselves available for duty at any time. If they are needed to protect life and property they are there. That is why Government support is so vital in ensuring that these services continue.

It is pleasing that the New South Wales Government this year provided a record amount of funding from the Rural Fire Fighting Fund to the Rural Fire Service, with $8.4 million being allocated to the Northern Tablelands. This has enabled Rural Fire Service brigades across the electorate to undertake station and equipment upgrades, complete training courses, purchase personal safety gear and undertake a range of other activities. Another benefit of this additional funding is the boost in morale that new equipment and better facilities can bring to the volunteers. It also lifts the profile of local Rural Fire Service units, adding to the enthusiasm of volunteers and attracting new recruits to their ranks.

This funding momentum should not be lost. I urge the Government to continue to give this vital rural service the resources needed to properly respond to the threat of bushfire. With the Victorian experience still fresh in our minds, we cannot afford to become complacent about fire protection. More than 70,000 volunteer members in New South Wales, 2,100 brigades in 143 rural fire districts, look after 95 per cent of our State, including 1,200 towns and villages. They are never complacent. New South Wales is fortunate to have one of the best firefighting teams in the world. We are leading the way with the use of technology to keep the community informed and safe. Tremendous leaps have been made in advancing warning systems for bushfire danger. The Rural Fire Service has even embraced Twitter to get the message out.

The use of aircraft also has a significant impact on how fires are fought. They are being used to a greater extent and provide valuable support, particularly in knocking down fires and giving ground crews a better chance of putting the fire to bed. I acknowledge the hard work being undertaken by the Rural Fire Service and other government agencies throughout the State, in particular, the men and women in the Gwydir, New England and Northern Tablelands teams. In recent weeks they have toiled in temperatures of between 30 and 40 degrees protecting life and property from fires in Glen Innes, Torrington, Tingha, Bingara and Inverell. As we head toward the one-year anniversary of the Victorian bushfires, I hope that the lessons learnt in the aftermath of that disaster ensure that those brave people who keep others safe remain a funding priority of the Government.

WESTERN NEW SOUTH WALES HEALTH SERVICES

Mrs DAWN FARDELL (Dubbo) [6.38 p.m.]: I stand yet again in this House to plead for action on the failing health system in western New South Wales. Since 2004, when I was elected to the seat of Dubbo, I have agitated for confirmation of plans to redevelop Parkes and Forbes hospitals. Yet, five years on, the Parkes and Forbes communities still wait, with no date set and not a dollar set aside even to draw up a plan. Even more urgent is that health services for the wider Dubbo electorate and the entire community of western New South Wales are in limbo, awaiting redevelopment of the Dubbo Base Hospital. Dubbo is the biggest health referral centre in western New South Wales. The region is desperately short of doctors, most maternity services have closed, and public transport and Medicare bulk billing are almost non-existent. The distances people are forced to drive for treatment are immense. Yet the health bureaucracy appears oblivious. Dubbo Base Hospital is buckling under the strain of inadequate budgets and a lack of proper planning. We are tossed vague and condescending promises about future priorities.

Just last week I stood before this House and called for support for an application for Federal Government funds to establish a regional cancer centre in the city of Dubbo. Last Monday I was told that no bid can be made for Dubbo because there is no master plan for the Dubbo Base Hospital and, therefore, no plan to enable such a centre to go into a public facility. The Federal Government has $560 million up for grabs to build 10 new regional cancer centres across Australia. The Cancer Council has highlighted Dubbo already as a region that desperately needs radiotherapy services. But there is no master plan for Dubbo Base Hospital so Dubbo cannot apply for a single dollar. Rural cancer patients are 35 per cent more likely to die within five years of diagnosis than those patients who live in cities. I quote from the *Sydney Morning Herald*:

> Radiotherapy is an essential cancer treatment needed by half of all cancer patients ... yet in NSW from 1996 to 2006 … More than 50.000 cancer patients were not treated, and it's estimated that 8000 patients died prematurely

There are no radiotherapy services in Dubbo or throughout western New South Wales. Would it not make absolute sense for NSW Health to put in a bid for Dubbo under the Commonwealth grant process? Unfortunately, if you live in Bourke, Cobar, Nyngan, Dubbo or Coonabarabran and you cannot afford to go to Sydney, or if there is no-one to mind your children or to look after your business, or if you live in Brewarrina and you are old and frail and terrified by the 2,000-kilometre round trip to the city, then NSW Health has no sympathy.

According to news reports this morning, NSW Health proposes new cancer treatment centres in the Central Coast, Illawarra, New England and North Coast regions under the Commonwealth Grant Scheme. Nothing is proposed for the more than 200,000 people from western New South Wales who seek treatment at Dubbo Base Hospital, and I am told that the key reason is because Dubbo Base Hospital has no master plan. The Greater Western Area Health Service says there can be no application for a regional cancer centre, or for any other grant or funding process until a master plan is in place. And how much would this miraculous document cost to formulate? Apparently, much less than a million dollars—possibly less than a few hundred thousand dollars would complete the task. It is such a trifling amount of money in the scheme of the health budget.

The Greater Western Area Health Service will declare that money is being spent on improving services for this region. But that claim, based almost entirely on the astonishing sums poured into the city of Orange, again demonstrates the insensitivity and poor planning of the health bureaucracy. People will travel hundreds of miles to Dubbo because it is their natural hub for financial, consumer and legal matters and a vast range of other services. However, those same people have no desire to keep driving another 150 kilometres to Orange where they do not have the same social and service links. Once you get to Dubbo it is quicker and simpler to fly directly to Sydney for medical treatment than to go to Orange.

The people of western New South Wales congregate in Dubbo—they retire there in droves—and many people have relatives living here who can assist them when they seek medical treatment. That is not the case in Orange. For the health bureaucracy to focus health services in Orange instead of Dubbo was an ignorant, insensitive and poorly planned decision. Population figures have been manipulated and falsely represented by those in charge to justify locating services in Orange instead of Dubbo.

I stand before this House again today to right the wrongs and to demand that the Minister for Health and NSW Health put the money on the table—just a few hundred thousand dollars from their billion-dollar budget—and get the master plan underway for Dubbo Base Hospital. A new lobby group has just formed—the Dubbo Orana Cancer Action Team [DOCAT]—to demand a better deal from the health bureaucracy. Cancer survivors and people who are fighting for the rights of others to have good treatment without having to leave the area have formed the group. We will not sit quietly by any longer, placated by weasel words and empty promises. The people of western New South Wales demand action, and if the linchpin on which action rests is the development of a master plan then the health bureaucracy should hand over the money.

Private members' statements concluded.

JAMES HARDIE FORMER SUBSIDIARIES (WINDING UP AND ADMINISTRATION) AMENDMENT BILL 2009

JUDICIAL OFFICERS AMENDMENT BILL 2009

SURVEYING AMENDMENT BILL 2009

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

FISHERIES MANAGEMENT AMENDMENT BILL 2009

Message received from the Legislative Council returning the bill with amendments.

Consideration of Legislative Council's amendments set down as an order of the day for a future day.

[*The Acting-Speaker (Mr Thomas George) left the chair at 6.44 p.m. The House resumed at 7.30 p.m.*]

ILLAWARRA INFRASTRUCTURE INVESTMENT AND JOBS

Matter of Public Importance

Ms NOREEN HAY (Wollongong) [7.30 p.m.]: There is good news to share about the Illawarra—good news for the region's economy and good news for jobs. I am proud to detail to the House the Rees Government's commitment to supporting jobs in the Illawarra. For example, just last month the New South Wales Government announced an $11.6 million investment in a new copper casting facility at Port Kembla. People did not seem to appreciate at the time that that investment helped to secure 199 jobs. Metal Manufactures Ltd [MMK] will install a new horizontal copper billet caster with the help of an assistance package provided by the New South Wales Government. This project will retain 199 direct existing jobs at MMK and bring $11.6 million in new investment to Port Kembla.

Additionally, the project will provide further indirect flow-on jobs and benefits to the Illawarra economy and, of course, to the New South Wales economy. The new billet caster will allow MMK to produce billets for copper tube manufacturing and to also recycle scrap copper. Currently MMK leases a billet caster on an adjacent site owned by Japanese machinery and commodities trading company Furukawa. However, the lease is expiring and Furukawa plans to demolish and remediate the site for sale. That is why the New South Wales Government stepped in to ensure that MMK's copper pipe business can continue in Wollongong and that local jobs are retained.

MMK is an important regional employer in the Illawarra. It makes copper tubing for the plumbing, refrigeration and air-conditioning industries, and copper rod and wire for most electrical cable manufacturers in Australia. Additionally, more than 40 per cent of MMK's output is exported, generating important foreign exchange revenue for Australia. A skilled, flexible workforce and access to efficient and leading-edge infrastructure support our metal manufacturing industry. The New South Wales metal manufacturing industry is Australia's largest, accounting for 35 per cent of Australia's metal manufacturing businesses and almost one-third of Australia's metal manufacturing employment. New South Wales is home to a large and world-class metal manufacturing industry, including copper, which generates billions of dollars for the national economy, and it is an important enabler of many other manufacturing, service and export industries.

The Illawarra has long been an industrial powerhouse. Its diversified economic base combines longstanding steelmaking, coalmining and agricultural industries with more recent manufacturing, engineering and tourism activities. The area also has extensive research and development capabilities for industry. The region's competitive advantages include: a highly skilled and motivated workforce; a broad range of industrial and commercial property options and affordable commercial rents; lifestyle and location, one hour south of Sydney international airport; and access to major road and rail freight corridors and Port Kembla sea freight options. Its education and research and development strengths include the University of Wollongong and its Innovation Campus.

As demonstrated by the Government's response to the Illawarra Jobs Summit in April, it is a strong supporter of the Illawarra's business community and is working to help attract jobs and investment to the region. The June budget speech included an announcement that over the next four years the Government will invest a record $62.9 billion in infrastructure, which will support up to 160,000 jobs a year. This Government is investing in new roads, increased energy capacity, better health services, school upgrades, new police facilities and new transport infrastructure for the Illawarra.

Some of the budget initiatives for the Illawarra include: $42 million for new road projects, including the safety upgrade of Picton Road and funding for the new intersection at the bottom of Bulli Pass where the Princes Highway meets Lawrence Hargrave Drive; $7.6 million for the new Lake Illawarra police station; $2.2 million for the $11.4 million upgrade of Unanderra railway station; $7 million for a new tug berth for the outer harbour at Port Kembla, as well as $840,000 for a new pilot boat; $1.7 million for additional acute hospital beds in the region; $3.2 million for the expansion of Wollongong Hospital's emergency department; $1.7 million to improve mental health facilities; $104.9 million for ageing, disability and home care services across the region; a new gymnasium for Kiama High School; funding for the new performing arts facility at Wollongong High School of the Performing Arts; a $4 million investment for new buses and funding for new commuter car parks at Helensburgh, Waterfall, Woonona and Wollongong; and funding for additional outer suburban carriages for the South Coast line.

The New South Wales Government is working in other ways to support jobs and investment in the Illawarra region. Through the Illawarra Advantage Fund it is helping businesses in the Illawarra to expand and

create jobs. Over the life of the Illawarra Advantage Fund the Government has supported 128 business expansion projects in the Illawarra. This translates to about $284 million in business investment and the creation and retention of in excess of 3,055 jobs in the Illawarra. The fund is also helping to make the Illawarra economy more diverse, which will support the long-term sustainability of businesses and jobs in the region.

By extending the life of this fund by $3 million over the next three years, the Government is supporting many more businesses in the Illawarra to create and retain jobs. The fund has helped to improve the competitiveness of the Illawarra, particularly in sectors where there are opportunities for growth, such as knowledge services sectors. Companies in these sectors have been targeted through the fund to establish or expand in the region. It is important to note that employment—and therefore unemployment—is high on everyone's agenda. Assistance such as this, which will protect 200 jobs, is essential to the community, MMK and particularly those who are employed and the families who rely on them. I commend to the House the Rees Government's efforts in supporting the Illawarra community.

Mrs SHELLEY HANCOCK (South Coast) [7.37 p.m.]: I am pleased to make a contribution to this debate. I am pleased that the member for Wollongong has raised this matter of public importance. I spent some of the early years of my teaching career in the Illawarra at Lake Illawarra High School and Warilla High School. I still spend considerable time in the area visiting family and friends, and members of the local business community, and the academic and teaching community. Both my daughters attended the University of Wollongong and lived in the Illawarra for some time. I am aware that the Illawarra region has a great deal to offer in terms of its schools, the University of Wollongong and of course the natural and beautiful assets that make this area a wonderful place in which to live. I am sure that the member for Wollongong is aware of all those attractions.

However, we must be honest. I note that the member for Wollongong read out a list of initiatives in the Illawarra. If we are to be honest, we have to admit that unemployment in the Illawarra and on the South Coast is very serious, and it must be addressed seriously. I am also aware that many organisations and business leaders are attempting to address the problems. But it should be noted that the unemployment rate in the Illawarra currently is officially at 10.5 per cent and that this figure reflects a growth in unemployment of 3.2 per cent between just September and October this year. The Australian Bureau of Statistics report indicates that the Illawarra lost 9,000 jobs in that month alone, and that now an additional 3,000 people are unemployed in the Illawarra. The statistics also reveal that 25,000 jobs in the Illawarra have been lost since mid 2008.

The New South Wales Government has made spasmodic and unsuccessful attempts to resolve the problems. Certainly the Government deserves a gold star for rhetoric and spin concerning the provision of green jobs, and for the talkfests it has initiated from time to time. Yet according to the Bureau of Statistics, which cannot be disputed, the New South Wales Labor Government has failed to improve in any way unemployment figures in the Illawarra. In fact, just in the past few months the figures have become worse. In relation to some of the rhetoric and spin I have referred to, I raise the issue of the green jobs initiative in the Illawarra and the Premier's dismal efforts to announce and re-announce a strategy that was not delivered on time, as promised. The Premier announced it in April and it had to be re-announced in November.

Specifically on 16 April this year Premier Nathan Rees announced that the New South Wales Labor Government would invest $250,000 to drive green jobs in the Illawarra comprising $100,000 for a study and $150,000 for immediate green jobs, education and training coming from the study. The Premier announced on 19 April that, as a result of the study, a green jobs action plan would be delivered within three months. On 17 November—more than six months later—the Premier, who was unable to deliver on the April promise, was forced to re-announce the same promise of $150,000 for immediate green jobs, education and training. Nothing has been immediate, and nothing has been delivered. All the time that was going on, the jobless rate in the Illawarra was growing alarmingly. The Government must do more than hold talkfests at six-monthly intervals, make promises, and then leave the region in the wake of rising unemployment.

I turn now to the even more serious issue of youth unemployment in the Illawarra region, of which I am sure the member for Wollongong is aware. Illawarra youth unemployment currently is between 22 per cent and 26 per cent. Indigenous youth unemployment is somewhere between 44 per cent and 46 per cent. The Government seems to prefer to ignore these statistics to avoid owning up to them. The Government does not talk about them during its job summits, yet these very serious issues should be addressed by adopting a very rigorous approach. Part of the problem lies with concerning statistics regarding school retention rates in the Illawarra, which are 10 per cent lower than the State average. The Illawarra needs a whole-of-government approach to the

issues, in particular to improve school retention rates and to increase the number of young people completing their Higher School Certificate [HSC]. If students stay at school longer, it is self-evident that their chances of employment will be greater.

For indigenous students, the Government has not addressed the problem at all, with the result that, alarmingly, indigenous youth unemployment is 44 per cent, and growing. I was disappointed that the member for Wollongong did not discuss during her speech indigenous youth unemployment, nor pay tribute to the award-winning Project Murra in the electorate of Wollongong, which was initiated by Warrigal Employment, the New South Wales Police Force and other government agencies. The project has been operating for three years and focuses on school-based traineeships and mentoring for careers in the New South Wales Police Force. Project Murra is an outstanding initiative and is achieving real results for indigenous students, but seemingly without the knowledge or support of the New South Wales Government, and particularly its parliamentary representatives in the Illawarra.

Ms Noreen Hay: You should stop misleading the House. You are a disgrace.

Mrs SHELLEY HANCOCK: Initiatives are achieving success in the Illawarra, and projects such as Project Murra should be supported because they achieve real outcomes. But the member for Wollongong appears not to be aware of the program and prefers at the moment simply to interject and revert to her usual spin, which is without substance. Certainly her speech on this topic did not deliver anything of substance or any good news for the Illawarra.

I turn now to the most recent example of how the Federal Labor Government is also out of touch with unemployment issues in the Illawarra. Just this week Maxine McKew, who is the Federal member for Bennelong and the Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government, addressed a local Wollongong business leaders forum and boasted about Federal funding for 44 social housing residences at Jaspers Brush in the State electorate of Kiama.

Mr Matt Brown: It certainly is.

Mrs SHELLEY HANCOCK: The member for Kiama actually says it is happening. Imagine the reaction in the primarily rural and farming areas of the electorate, as residents scratched their heads while trying to imagine which farms on prime agricultural land were to be subdivided and which prime agricultural areas would be cut up and developed. Thank goodness the hapless member for Bennelong was forced to correct the record and state that the project was for Wollongong, not Kiama. She blamed her speechwriter and the department. But the incident indicates that the Federal Government simply has no knowledge of, or interest in, the region. Members who represent the Illawarra have never engaged in anything but media stunts and talkfests, despite the Labor Party dominated council in Wollongong being sacked in a most controversial and shameful episode. Today another Wollongong company, Wideform, was placed into liquidation. The member for Wollongong would remember Wideform. I suggest she consider seriously the issues I have addressed.

Mr MATT BROWN (Kiama) [7.44 p.m.]: I endorse the statements of the member for Wollongong because there is good news to share about the Illawarra. But of course the picture is not all rosy. The Government recognises that unemployment challenges exist. That is why we pour so much effort, thought and innovation into retaining existing jobs, attracting new industries and growing new jobs. That is what the Labor Government is all about—good news for jobs. A lot of our businesses are dong it tough. Only today I heard—and this is yet to be confirmed—that Wideform has closed its doors and that all its workers are now unemployed. I declare a particular interest in that news: my stepfather works for Wideform. It is very sad for him, for all his workmates and for the company.

The New South Wales Government is committed to supporting businesses in the Illawarra, both traditional businesses and new industries. That is why the Government has invested $250,000 in the Green Jobs Illawarra Action Plan. My colleague the member for Wollongong outlined in great detail the green jobs action plan. It is a compelling example of the way in which governments are able to support carbon-intensive local industries and economies to transition towards cleaner, greener jobs and industries. The Illawarra will become a model for regional economies that are looking to boost green jobs and transition to a carbon-constrained economy.

The New South Wales Government is working with key regional stakeholders to promote the region as a place in which to do business. Attention should be given to some examples. Among other initiatives, the

Government has been working with Kiama council and other stakeholders to target opportunities for business and investment in the local tourism, retail, professional services and niche agribusiness sectors; to produce new marketing materials and a website to promote key strengths of the Shoalhaven local government area; to work with Regional Development Australia in the Illawarra and far South Coast to market the region as a place in which to do business and invest; and to work to develop the information and communications technology sector, including the launch of the Illawarra ICT Cluster in May this year.

The Government is developing and promoting business clusters and networks in other key sectors, such as the defence industry around HMAS *Albatross* at Nowra and the seafood industry at Eden; promoting the 120-kilometre Grand Pacific Drive, focusing on the Government's $49 million investment in the Sea Cliff Bridge and the regions of Shellharbour, Kiama and Shoalhaven with return links to Sydney via the Southern Highlands; working with Illawarra councils to identify and develop available employment lands that can support business and industry growth; and working with Illawarra manufacturing companies to help them to implement lean production techniques to improve their efficiency and competitiveness. In my opinion, that is a pretty good list. I have mentioned projects just off the top of my head that the Government is promoting. We certainly should not be talking the region down, which is what we hear Opposition members doing time and time again.

The member for Wollongong mentioned the Illawarra Advantage Fund. That is another great example of what we are doing for jobs. A good example is Unanderra manufacturer M and S Engineering Pty Ltd. The fund helped that firm expand its operations to make the most of business opportunities resulting from its world-class polyurethane technology. The company's $347,000 investment in expanding its operations will help it to grow new business and more than double its workforce over three years. That project will create 16 extra jobs. The company is working with the State Labor Government to generate the jobs in the seat of Wollongong, which is a great achievement for the Illawarra Advantage Fund.

Let us not forget the assistance that the fund provided to Oasis Asset Management. The company is expanding its operations by developing a new web-based planning platform in Wollongong, creating 15 new jobs over 12 months. That will add to the 303 employees it already has in Wollongong who manage more than $5 billion in superannuation investment funds on behalf of members. The State Labor Government is serious about jobs in the Illawarra. We have been with the people of the Illawarra through thick and thin. We have been with them in good times and in bad times, and we will stay with the people of the Illawarra. There is only one government they trust, and it is the New South Wales Labor Government.

Ms NOREEN HAY (Wollongong) [7.49 p.m.], in reply: I place on record my appreciation of, and thanks to, the member for Kiama for his usual positive comments about the Illawarra and Wollongong. It is no surprise to me that the member for South Coast comes into this place and dumps on the area—negative, whinge, whinge, whinge. The member for South Coast does not seem to grasp the fact that investment and the activities that create jobs come from confidence. When people in the region have confidence and when investors have confidence in us, the jobs will come.

We said today that we took action to save 200 jobs—no mean feat. Did the member for South Coast at least acknowledge that, whilst unemployment is difficult to tackle, this was a good outcome? No, of course not. The member for South Coast is not here to speak the truth—ever. She is here to be continually negative. How can one find something negative to say about the New South Wales Premier investing $240,000 in a green jobs initiative run by the Labour Council and the university in partnership? How can one find something negative to say about an initiative that aims to improve green job opportunities? But the member for South Coast said not one positive word today, which is not surprising. I have to wonder whether the member for South Coast is not drawing a salary under false pretences. Members are supposed to represent their electorates in a positive manner and try to attract investment, help save jobs, increase job opportunities and assist young people.

I remind members that Maxine McKew, the member for Bennelong—I was at the meeting to which the member for South Coast referred and I do not recall seeing her there, so it is obviously more hearsay—came to the region to give positive reinforcement to the Federal Labor Government's investment in schools and housing. Compare that with 12 years under the Howard Federal Government. John Howard did come to the Illawarra and to Wollongong, but only to take money out of it, not to put any in. Business in my electorate does very well with my assistance, and I assure members that the people of the Illawarra and Wollongong are not fooled.

Mr John Williams: Property developers.

Ms NOREEN HAY: The member for Murray-Darling should sort out his water problem. That lot over there does not fool the people of the Illawarra and Wollongong. Members opposite think they are fooled, but

they are not. They remember that that lot opposite closed schools, hospitals and railway stations. They have not forgotten it and they will not forget it because we will be there to remind them. We have received investment from a Federal Labor Government and a New South Wales Labor Government the like of which we have never heard or seen before. People should be afraid if members opposite ever get themselves onto the Government benches because they will see cuts and reductions. Before the last election those opposite announced that they were going to sack 29,000 public servants if they got into government.

Mr John Williams: Not 29,000, it was only 20,000.

Ms NOREEN HAY: Yes, you changed it afterwards. If that lot opposite had won the last election there would be no car imports coming through Port Kembla in my electorate. During the election campaign Opposition spokespeople went on the radio and television and said that there would be no car imports through Port Kembla if they won. How smart is that? You can see why the people did not rush to vote for them. And their intelligence has not improved greatly. But far be it from me to say an unkind word to anybody on the other side. I would rather say nothing than cause an argument, as everybody in this place knows. I encourage not only the member for South Coast but also other Opposition members to talk up New South Wales for a change; talk up the Illawarra and be positive and work hard for the people who elect us to do just that. Opposition members should not come into the Chamber whingeing and whining and carrying on, creating negativity in New South Wales. It reminds me of when they refused to ask John Howard to give us a fair share of the GST.

Discussion concluded.

WATER MANAGEMENT AMENDMENT BILL 2009

Agreement in Principle

Debate resumed from an earlier hour.

Mr NINOS KHOSHABA (Smithfield) [7.54 p.m.]: I support the Water Management Amendment Bill 2009. The bill contains important amendments to the Water Management Act 2000 and the State Water Corporation Act 2004 regarding the installation, upgrading and maintenance of water meters. The passing of the bill will enable a $28.6 million project to improve the measurement of water extraction in the Hawkesbury-Nepean catchment to proceed. The Improving Hawkesbury-Nepean Water Balance Accounting Project is one of seven to be implemented under the $77.4 million Hawkesbury-Nepean River Recovery Program funded by the Australian Government through the Water for the Future program. The Hawkesbury-Nepean River Recovery Program is managed by the New South Wales Government's Office of the Hawkesbury-Nepean.

Hawkesbury-Nepean water licence holders have a right to extract water from the region's rivers, streams and creeks in accordance with their licence conditions. About 50 per cent of this water extraction is already metered. Under this $2.6 million project, National Water Initiative compliant water meters, data loggers and telecommunications devices will be fitted to water extraction equipment for approximately 2,000 surface water licences across the Hawkesbury-Nepean region. For the first time, this state-of-the-art water metering system will measure and report real-time data on all licensed surface water extraction. Meters will not be installed on works that extract water from farm dams for basic landholder rights or groundwater.

Accurate, up-to-date information on how much water is being extracted from the Hawkesbury-Nepean's rivers, streams and creeks is essential for government to ensure that water use is sustainable in the long term. Data captured by the water meters will help the NSW Office of Water ensure that no-one is pumping water illegally and that there is enough water in the system to meet the needs of water licence holders, the environment and the broader community. The new water metering system will provide licensees with real-time data to better inform on-farm water management decisions. It will also ensure that licensees comply with State and national water metering standards. The meters will be installed or upgraded at no cost to licence holders, and enable water trading to commence once water trade and access rules have been determined in the Greater Metropolitan Region Water Sharing Plan.

As members can see, this is a vital project that will ensure that future water management planning in the Hawkesbury-Nepean is based on comprehensive and accurate information about water use. The amendments in this bill will clarify the rules with regard to installing, upgrading and maintaining water meters under the

Water Management Act 2000 and the State Water Corporation Act 2004. Principally, they will provide for the Water Administration Ministerial Corporation and the State Water Corporation to take over the exclusive operation and maintenance of prescribed classes of meters in areas or water sources prescribed by regulation.

It also provides the ministerial council with appropriate powers to install, operate and maintain water metering works on land, and enables the Minister for Water to issue a direction to install and maintain metering equipment. These provisions provide greater clarity for water agencies and water licence holders regarding the power government has to install, upgrade and maintain water meters on private property. Without resolving these issues it would be difficult for water metering projects, such as the Improving Hawkesbury-Nepean Water Balance Accounting Project, to proceed. Enabling irrigators and the Government to access real-time data on water use will help to ensure that New South Wales water resources are used sustainably for the long term.

Mr JOHN WILLIAMS (Murray-Darling) [8.00 p.m.]: I got an education this evening. I thought the great work on water management in New South Wales was down to the Minister for Water, his predecessor the member for Toongabbie and the member for Blue Mountains before him. Now I found that the member for Riverstone set this magnificent foundation for water reform in New South Wales; he led the way. He made a magnificent speech tonight. I invite him to make that speech to the irrigators in Deniliquin; I would like to see whether he could get out the back of the hall at the end of the night. Irrigators do not want to hear any more about reform. Reform, reform, reform is all they have seen. I hope that the Government's future plan is not constant reform. Reform is irritating for these poor devils who have had all the frustrations associated with the drought, and now we are talking about more reform.

We implemented some major changes within the scope of the national water initiative, and we saw irrigators lose across the board entitlements to try to supplement flows in most rivers. At this stage of the game we have not seen the benefits of the national water initiative. Irrigators lost their water entitlements. Unfortunately they could not demonstrate the benefit of water entitlements because we never had average flows in the rivers. In terms of reform, if we keep winding down the screws at some point we will go too far the other way. We must be conscious of that. We have already taken some major initiatives in water management in New South Wales, and in most cases the irrigators have felt the full impact of them. Irrigators have lost their water entitlements but have had no compensation.

There is a lot of confusion among irrigators at the moment. The State Government is trying to manage water in New South Wales and a Commonwealth body is overseeing water management. Also, a Commonwealth organisation has decided to establish water trading rules. That is fine, but one aspect of the water trading rules relates to transformation. That is difficult to make work. It is hard to apply water trading rules because some organisations are currently in transition. The transformation rules that apply under the national initiative are creating a lot of frustration and misunderstanding. I talk to irrigators who have decided to embrace the transformation rules and apply for transformation. Somewhere in the middle is the Minister for Water who will ultimately determine the outcome, as opposed to what the Federal Government or any other organisation tries to dictate.

The provisions relating to water meters are confusing. The two major organisations in my electorate, Murray Irrigation and Western Murray Irrigation, have in place major infrastructure to reticulate water to irrigators. Basically, history shows that those corporations were once part of the State Government. The State Government took the responsibility for that work. But at some point the Government said, "Let's corporatise these organisations and hand over responsibility to them. We'll set up a shareholder group among the irrigators; they can support the structure and manage the organisation, and we will give them a bulk water entitlement." A bulk water entitlement provides those two organisations with access to whatever amount of water is determined, and they distribute that water amongst the irrigators. Provision is made for transmission losses, and there is a conveyancing allowance. Ultimately, those organisations have responsibility for managing such matters as water theft and the mismanagement of water within that organisation.

As a consequence they have made a major investment in measuring the amount of water that goes onto irrigation properties. However, that will be removed, and once again we will rework the infrastructure and resume management at that point. The fact is that most water theft occurs off those irrigation areas. Within the Murray, Murrumbidgee and Darling irrigation areas are major billabongs, creeks and offshoots. People who want to steal water simply put in a pump and start pumping water. They are the culprits in terms of water theft. The only way to measure that water theft is by constantly surveying the area and seeing where irrigation is taking place in excess of the water entitlements of the irrigators. There has been clear evidence of water theft.

I have been in the company of departmental officials who are aware of those who engage in such activities. Prosecutions must take place, and that is fully supported by the irrigators. They do not want their futures taken away by people who undertake illegal activities. They support people being prosecuted, but to date there has not been a lot of action. So where does it stop? When can I tell irrigators that we have reached the bottom and we can no longer reform the system? The only thing we can do is introduce water savings measures, which the irrigators want to engage in. To some degree, the previous Coalition Government supported that, but generally speaking the Federal Labor Government has got cold feet in terms of how it will apply the water saving funds.

The Federal Government wants to apply a dividend and ensure that the water that is saved goes back into the system. Obviously everyone is aware that we face many challenges in the future. Water reform has been on the go for a long time. That is why the national water initiative was put in place. The national water initiative recognised that somewhere along the line we had done a poor job of allocating water in Australia; we had overallocated water entitlements. I guess for most politicians water was probably a fairly easy thing to give away and it generated income for governments. There was certainly some revenue in it, and it was a good use of the resource. History will show that some of the decisions were made at a time when we had plenty of water.

We are in the grips of a long drought yet we are making decisions on the new baseline, which is zero allocation for many general security users on rivers throughout New South Wales. To use the example of deregulation of the dairy industry, one always cuts too deep. We must bear in mind the urgent need to address this issue, but remember that it will not change the situation. Much of the country is in drought and implementing further reforms with respect to irrigation will not produce more water today. The aim is to produce more water for the future. However, a significant number of New South Wales water entitlements were allocated to the point where we placed an embargo on the use of water. This was because we recognised that the future of irrigation in New South Wales would be destroyed. People who were under pressure made the decision to cash out their water for their own survival and to ensure that they had some future.

It is a dangerous environment in which to make the decision to remove caps from irrigation organisations. The present structure works well if there is an irrigator at every point where the water is removed. However, if irrigators leave, the cost of supplying infrastructure to the remaining irrigators will be huge and they will have to contribute much more than they did in the past. This puts them under extreme pressure to make a net profit for their farming operation. All governments must be mindful of this fact. It should also be remembered that the New South Wales State Government built these structures with the intention of returning something back to these areas.

We should remember that under this State Government initiative people were encouraged to commit, to get on board and to link up to the networks. If removal of the cap causes an exodus of irrigators from the network, this will cause a problem for remaining irrigators. In fact, it will probably be their demise, and that will be a shame. Under normal circumstances the organisations have operated well. For example, Western Murray Irrigation devised a water saving plan and pipeline for its network that resulted in a 60,000-megalitre savings in water. That company is committed to water saving and managing the resource in the best possible way. We should give those companies proper respect when we challenge their businesses by removing the caps.

Mr PHILLIP COSTA (Wollondilly—Minister for Water, and Minister for Regional Development) [8.15 p.m.], in reply: At the outset I thank the members representing the electorates of Burrinjuck, Riverstone, Barwon, Smithfield and Murray-Darling for their contributions. We all know that managing water systems, particularly in the western regions of New South Wales, has been a significant challenge and one that requires very careful consideration. The Water Management Amendment Bill 2009 is a move towards that outcome. I clarify that the bill does not change the arrangements within an irrigation corporation area; irrigation corporations are still responsible for the meters within those irrigation areas. The bill impacts on the infrastructure of the corporations as they take water into the irrigation area. Metering and what goes on inside an irrigation area are still the responsibility of the corporation.

I am proud to follow some very esteemed gentlemen as Minister, particularly the member for Riverstone, the member for Rockdale, the member for Blue Mountains and former Minister Knowles. This is a journey and those esteemed gentlemen contributed significantly. Over many years members on both sides have done considerable work to get us to this point. The journey is not over and this bill is about continuing that journey. It seeks to put in place certain rules. My colleague the member for Murray-Darling called it further reform. The bill has rules so that we can deliver. The Water Management Amendment Bill 2009 is a practical and considered response to an urgent concern. We need to manage, monitor and measure the water being extracted from the systems.

Mr David Harris: David Campbell was a Minister for Water as well.

Mr PHILLIP COSTA: I have been informed that David Campbell, a very good friend of mine, was also Minister. I should have remembered because I was down in the Illawarra and he reminded me that he was the Minister. I am amongst esteemed company. The urgent concern is to safeguard the future of our rivers and our river communities and to ensure that scarce water resources are shared equitably. All members share that concern. Irrespective of what has transpired, we are all here for the same purpose. The bill establishes the arrangements needed to facilitate up to $250 million of investment into our long-suffering irrigation communities. This investment will go into improved water metering in the Murray-Darling Basin and the mighty Hawkesbury-Nepean. This extensive program will considerably improve the ability of irrigators and government to monitor water use, and ensure that water is distributed equitably and managed economically.

Metering is particularly important for unregulated rivers and groundwater sources to ensure that water allocations and usage are within long-term sustainable limits. Enhanced metering across all water sources is also an important step towards ensuring that New South Wales irrigators and water users meet national standards for water metering in the long term—something the New South Wales Government had committed to do. The changes also provide technical support to enable enforcement of last year's amendments to the Water Management Act, which enhanced penalties for non-compliance with water management decisions. Reliable monitoring clearly provides an enhanced basis to determine whether or not water users are complying with their water licences. The member for Murray-Darling referred to theft, and it is a very serious problem. The bill seeks to address that.

Changes to standards for water meters may initially appear to present a cost to water users. However, in the long term all water users and the environment stand to benefit from an enhanced ability to track water use. Any additional initial costs will be considerably mitigated by Commonwealth funding, which requires the changes outlined in the bill to be delivered. To respond to the member for Burrinjuck, in relation to consultation on metering, the Office of Water and I have consulted considerably with the Irrigators Council about the metering proposals. On 10 November we met with Mr Andrew Gregson, Chief Executive Officer of the New South Wales Irrigators Council, who publicly indicated in the national media his support for more accurate systems of water metering to make it more difficult for water thieves to take more water than they are allowed without being detected. He said:

> If somebody is taking more (water) than they are entitled to, they are taking it off their neighbours and they are taking it off those people that are also trying to make a living out of irrigation.

We have received positive support in relation to that matter. State Water has been consulting with customer service committees across the State regarding water meter upgrades and replacement. Ongoing consultation with those who are impacted by that matter will be undertaken by both State Water and the Office of Water as part of the rollout of the metering projects in the Murray-Darling Basin. It will not happen overnight. In relation to the Hawkesbury Nepean—another very important component of this bill—the Office of Hawkesbury Nepean, within the Office of Water, is continuing to work closely with stakeholders in the catchment.

The Office of the Hawkesbury Nepean has met with the Upper Nepean Water Users Association and the Lower Nepean and Hawkesbury Users Association and provided an opportunity for concerns to be raised. The office has also written to licence holders in the area, and conducted an information evening for users in that part of the catchment. At the information evening the office and the Water Users Association agreed on procedures to apply in relation to site inspections because Hawkesbury-Nepean will be first off the rank. A similar mail out and information evening is planned for the lower Nepean and Hawkesbury.

Water users are broadly in agreement with the principle of metering and the need to be able to demonstrate a more transparent, accurate and accountable system for monitoring water extraction. The irrigation community is concerned at the increase in its business costs, particularly as a consequence of the requirement to install water metering that is telemetry enabled. Telemetry, while having initially higher costs, provides significantly improved efficiency in gathering the information required and will, in the medium term, result in lower metering costs to government and hence to irrigators.

Metering projects are directed at licences and authorised works under the Water Management Act. The Government does not licence the taking of water or authorise works within irrigation corporation areas. Metering within irrigation corporations is important to ensure the fair distribution of water and fair sharing of the resource. This is part of irrigation corporations' business. However, we also need to protect the shares of

people within irrigation corporations by preventing water theft. We will be talking to irrigation corporations in the new year about whether there is a need for any new or additional powers to prevent water theft within irrigation areas.

In the Hawkesbury-Nepean catchment the meter rollout program involves the purchase and installation of up to 2,000 state-of-the-art metering systems for surface water. In the Murray-Darling Basin it is proposed that $131 million will be dedicated to installing meters in groundwater and unregulated water sources, and $90 million will be used to replace existing meters in regulated water sources, that is, rivers that have a major dam in their headwaters. As the projects are developed and rolled out eligibility criteria will be determined. These criteria will include the priority of the water sources and the licences involved, and in many cases will involve a site assessment process. These meter rollout programs may therefore involve the installation of new meters as well as the modification or replacement of existing meters. This will significantly benefit water users who are currently unmetered, as well as users whose meters are getting on a bit and may not comply with the forthcoming national standards.

The requirement for landholders to install a monitoring device will present an increased cost. However, this is an essential requirement to ensure equitable access to scarce resources. Currently, in New South Wales, water users are responsible for maintaining meters as a condition of their licence or approval. The Minister may also issue directions to landholders and other people relating to meters. For meters installed by the State Water Corporation, the State Water Corporation will be responsible for maintaining those meters unless a regulation is made because they are responsible for their own infrastructure. For all other meters, water users will continue to be responsible for maintaining meters unless a regulation is made conferring that function on the Water Administration Ministerial Corporation or the State Water Corporation.

Where the New South Wales Office of Water or the State Water Corporation is responsible for operating or maintaining meters, it is expected that those costs will be passed on to water users through an Independent Pricing and Regulatory Tribunal determination. As members know, an Independent Pricing and Regulatory Tribunal determination follows its own path. This is consistent with the user-pays principle, which is one of the principles of ecologically sustainable development. This forms part of the objects of the Water Management Act 2000. While there may be some additional costs associated with periodic verification of meter performance, this is an essential component of maintaining effective measurement under a national metering standard. We anticipate that water users will be better off overall, with improved confidence in equitable water sharing between users and for the environment. However, as I have said before, metering inside the area of an irrigation corporation is their responsibility.

The State Water Corporation will own the meters it installs because the State Water Corporation is the owner of all works it installs under its existing legislation. The bill clarifies that this includes metering equipment. This bill does not affect the ownership of works under the Water Management Act or interests in the land on which these works occur as meters installed by the Water Administration Ministerial Corporation will continue to be owned by the landholder. They will not become the property of the Water Administration Ministerial Corporation. However, water users are prohibited from tampering with these meters and the ministerial corporation has the right to remove a meter it installed without paying compensation.

The Commonwealth is only prepared to commit $221 million of funding in the Murray-Darling Basin if some entitlement is transferred to the Commonwealth for the environment, that is, a condition of the funds is for some of the water to be transferred to the Commonwealth. By allowing for the roll-out of these major metering projects, if approved by the Commonwealth Government, the bill will facilitate a massive investment of funds into regional New South Wales and contribute to the further evolution of the water management system in New South Wales. The bill also takes an important step towards harmonising water trading rules across State borders and confirms that New South Wales is determined to lead on water trading and to see barriers lifted eventually.

The bill better enables New South Wales to implement the historic 3 July 2008 Intergovernmental Agreement on Murray-Darling Basin Reforms. This agreement establishes new institutions and new processes to manage the water of the basin, particularly to ensure that critical human needs can be met in dry times and to ensure that water market and charge rules are uniform across the basin. Last year we enacted the Water (Commonwealth Powers) Act 2008, which referred certain New South Wales powers in the Murray-Darling Basin to the Commonwealth. Earlier this year the Commonwealth Minister for Climate Change and Water applied those powers, who made water market rules apply across the Murray-Darling Basin. In particular, the changed water market rules allow people who hold water rights as members of an irrigation infrastructure operation to transform that right to an individually held entitlement. This will allow them to trade those rights in the future, or to use the rights as an individually held asset to be considered as collateral when seeking a loan.

This ability will enhance the transfer of water across the basin to its most efficient and valuable use. Regional communities are currently protected in the short term from the risk of having water rapidly traded away from particular areas through a 4 per cent cap on trades. The cap will be discussed with stakeholders to determine whether it continues to be needed in the long term. The proposals outlined in the bill allow a careful balancing act between our commitments under the National Water Initiative, the interests of specific local communities, and the long-term benefits to the environment and water users, which can be reaped through water trading.

In response to the member for Burrinjuck regarding consultation and the 4 per cent cap, the New South Wales Office of Water has begun discussions with the Irrigators Council, the New South Wales Farmers Association, the Nature Conservation Council and the irrigation corporations to seek their views on whether the continuation of the 4 per cent cap in New South Wales is required in the long term. The publication of instruments on the New South Wales legislation website was raised during the debate. The bill proposes that a number of water management instruments required by the Water Management Act should be made through publication on the New South Wales legislation website, rather than coming into force through publication in the New South Wales *Government Gazette*.

Following the request from the member for Burrinjuck, I followed through on that aspect. This proposal applies only to more substantial, long-term water management instruments, such as water management plans, harvestable rights orders, orders establishing access licence dealing principles, and orders establishing mandatory guidelines for the taking and use of water for domestic consumption and stock watering by landholders. The review and endorsement processes for these instruments will not change under this proposal. However, this change will considerably enhance public access to significant water management decisions. In response to the member for Burrinjuck, instruments generally take effect on publication, so legally publication can happen only once. The Opposition's suggestion would create confusion about when an instrument has been published. The legislation website allows people to have access to both current and historical versions of instruments. This amendment facilitates transparency and easier access to information for the public.

New South Wales has led the way on Murray-Darling Basin reform, and we will continue to do so. In the Intergovernmental Agreement on Murray-Darling Basin Reform, the Commonwealth Government gave in-principle approval for the New South Wales Government to implement new water projects worth $708 million. In addition, private irrigators in New South Wales will receive $650 million for projects. Hundreds of millions of dollars will flow to New South Wales to invest in water saving projects such as the piping of stock and domestic water supply systems, irrigated farm modernisation, improved water metering, and reforming the management of water on floodplains. These processes are complex, and New South Wales has been working with the Federal Government to complete this work quickly and to ensure the flow of funds to New South Wales.

In the interim, the New South Wales Government is pleased that the Commonwealth has recently approved a $21.7 million on-farm irrigation pilot project in the Gwydir Valley in advance of the broader $300 million farm modernisation investment. For the pilot project, Government funding of $19 million is to be directly invested in infrastructure such as improved irrigation systems, pipelines and pumps. There will also be additional infrastructure investments by the landholders themselves. We are also ensuring sustainability in Sydney's food basket by delivering improved river health in the Hawkesbury-Nepean. That is why that component of the bill is very important.

The Commonwealth has committed to providing over $77 million to the Hawkesbury-Nepean River Recovery Project. The project aims to improve river health below the major water supply dams by increasing the water available for environmental flows in the river and by reducing nutrient loads exported to the river in stormwater, agricultural run-off and sewage effluent. The project has seven components. In addition to the metering component of this project, there are also the following programs: nutrient smart management, irrigation and landscape efficiency, licence purchase, water-smart farms, the Hawkesbury City Council-South Windsor Effluent Reuse Scheme, and nutrient export monitoring. So we have a suite of solutions, and the bill is just one component of them.

I, together with many others, am committed to continuing the great work that has been undertaken through the very successful Great Artesian Basin Cap and Pipe the Bores Program. I am working towards building on the achievements to date from this program, together with many others. The bill is very important so that we can get on with the job of delivering what we said we would deliver. The bill is critical to the ongoing reform of water management in New South Wales and to ensuring equitable access to limited water resources. It

enables New South Wales to access considerable Commonwealth funding to support improved water use monitoring in the Murray-Darling Basin and the Hawkesbury-Nepean. This, in turn, will have flow-on benefits to all water users and the environment. We all know that we are faced with some significant challenges, and the bill goes a way towards delivering the types of projects we need to deliver to ensure that we manage what very precious water we have in the most responsible way. In order to support our irrigation industries and our riverine environments, I commend the bill to the House and urge members to support it.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

ELECTRICITY SUPPLY AMENDMENT (GGAS) BILL 2009

Agreement in Principle

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [8.36 p.m.], on behalf of Ms Verity Firth: I move:

That this bill be now agreed to in principle.

As the bill was introduced in the other place on 12 November 2009 and is in the same form, the second reading speech appears at pages 67 and 68 in the *Hansard* galley for that day. I commend the bill to the House.

Mr MIKE BAIRD (Manly) [8.37 p.m.]: The Opposition does not oppose the Electricity Supply Amendment (GGAS) Bill 2009, the effect of which is to amend the Electricity Supply Act 1995 with respect to abatement certificates and abatement certificate providers, and the liability of the State in connection to the Greenhouse Gas Abatement Scheme, also known as GGAS. The bill is similar to the Electricity Supply Amendment (GGAS Abatement Certificates) Bill 2009, which the Legislative Council compelled the Government to withdraw after it tried to ram it through this place. The changes that have been made to the bill are important, and they prove how absurd the Government's attempt to avoid scrutiny on this matter was.

The Electricity Supply Amendment (GGAS) Bill 2009 will reduce surplus certificates by stopping new applications for accreditation. It will also remove opportunities to create certificates from category A generation projects, which are projects that were commissioned prior to the start of the GGAS. The bill will also provide that compensation is not payable in regard to that part of the Act. The aim of the bill is to establish the architecture—the process and timeline—of a transition away from the GGAS. Opposition members have been strident critics of the GGAS, led particularly by the shadow Minister, and have shone a light on the many flaws of the scheme.

When the Electricity Supply Amendment (GGAS Abatement Certificates) Bill 2009 was in this place before it was unceremoniously pulled, the shadow Minister referred to the good work done by the Centre for Energy and Environmental Markets at the University of New South Wales. In the early years of the GGAS the centre exposed the problem of the inclusion of category A projects. These projects meant the scheme operated not as an emissions reduction scheme but, rather, as a certificate creation scheme, with certificates often not relating to abatements. During the first debate on this bill's predecessor, the Government overstated its figures regarding the benefits of the GGAS by including category A programs. The savings from this category of certificates occurred before the GGAS scheme commenced, and the investment was never predicated upon the sale of certificates. The member for Shellharbour stated that category A programs had clearly been assessed as economically viable without the additional GGAS revenue that they were subsequently able to access.

These emissions reductions occurred independent of the GGAS, and hence the Government should never have claimed certificates derived from them as cuts to emissions. The reasons offered by the member for Shellharbour are insightful. She states they were included "on the basis that this would provide credit for early action" and would provide a "flow of certificates for compliance in the early years of GGAS". Hence, we consider it appropriate that of all certificates, category A certificates be wound up first. That said, they are an

expensive source of certificates, so costs to retailers will increase. We acknowledge this impost, and note that it would not be happening if the Government had run the scheme properly on this principle in the first place. Due to this fact, the Government tried to ram the previous bill through the Parliament. If the Government is to remove a group of certificates, category A programs should be on top of the list as they do not represent the abatements that other certificates represent. However, that does not mean the Government should trash democracy to do it.

It was a pretty black day for this place, and certainly that was the strong feeling of the shadow Minister. The Opposition informed the affected stakeholders about the bill, which was introduced and rammed to the front of the queue immediately. More alarming was that stakeholders were informed by the Government that it would like dialogue about the bill moments before the Government decided it would be rammed through at the top of the list. That was a two-faced act by the Government, with little regard for the institution of the Parliament. When we were able to draw this to the attention of the House the crossbench joined with the Opposition to postpone debate to force the Government to deliver on promised consultation with industry.

The original bill was deficient in terms of timing for transition arrangements. First, it failed to give reasonable notice for implementing the new arrangements. The stakeholders pointed out the need to be practical in plans for a smooth transition. Secondly, the GGAS Scheme has been operating on a calendar year basis. To bring it into line with a new scheme anticipated in the outline of the bill, it is necessary to facilitate a change from calendar year to financial year. This practical consideration is the result of stakeholder consultation, and vindicates the decision of the House to force the Government to talk to stakeholders. These errors were simple things that ought not to have happened, and which would not have happened if the Government had gone through the normal processes, as it did with the previous bill. Having said that, we do not oppose the passage of the bill.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [8.43 p.m.]: Despite the somewhat alarmist statements by the member for Manly, the Electricity Supply Amendment (GGAS) Bill 2009 is outstanding, pioneering legislation which follows on from the pioneering legislation of the Government eight years ago when it introduced the GGAS way ahead of its time. At that time that legislation placed the New South Wales Government well and truly as a leader in climate change policy—a leadership it continues to maintain to date. Since 2006 the New South Wales Government has made it clear that the Greenhouse Gas Reduction Scheme, otherwise known as GGAS, would end following the commencement of a national emissions trading scheme.

For many years, New South Wales has considered a national emissions trading scheme as the most effective and equitable means to reduce Australia's greenhouse gas emissions. Since the Rudd Government introduced the Carbon Pollution Reduction Scheme, known as the CPRS, New South Wales has supported it. Now that the Commonwealth Government has announced the commencement of the CPRS from 1 July 2011, we must continue the process of transitioning from GGAS to the CPRS. As I stated earlier, GGAS has been a tremendous success, and introducing GGAS nearly eight years ago placed the New South Wales Government as a leader in climate change policy at that time. That was long before it became fashionable to debate matters relating to climate change.

GGAS was one of the first mandatory greenhouse emissions trading schemes in the world and New South Wales was at the forefront, not only in Australia but also in the world. Its purpose was to reduce greenhouse gas emissions associated with the production and use of electricity, and it has. Based on annual statewide reduction targets, GGAS requires individual electricity retailers and some other parties to meet benchmarks based on the size of their share in the electricity market. It is a robust program that is monitored by the Independent Pricing and Regulatory Tribunal of New South Wales. And, yes, it has been successful. To date the scheme has offset more than 90 million tonnes of greenhouse gas emissions.

Mr Michael Richardson: Rubbish!

Mr JOHN AQUILINA: No doubt the member for Castle Hill, who will follow me as he always does and being the spoiler that he is, will come up with baseless claims, usually manufactured through data that only he knows how to conjure, to try to say something different. I assure the House that these facts and figures are based on flawless empirical data, which the member for Castle Hill, despite his claims otherwise, will not be able to refute.

Mr Michael Richardson: Flawless empirical data?

Mr JOHN AQUILINA: Yes, flawless empirical data. That is what the scheme was based on and that is what the calculations were based on. To recognise the success of GGAS and to ensure our participants can smoothly transition to the national CPRS, we must adopt the changes in this bill. Currently, there is an oversupply of GGAS certificates. To reduce the potential impact of this on GGAS participants during the transition to the national scheme, we need to reduce the number of surplus certificates. The bill removes opportunities for GGAS certificates to be created in relation to category A generation projects from 1 July 2010.

By removing these pre-GGAS projects, the number of surplus certificates will be reduced. According to many stakeholders, that will improve the performance of GGAS overall. This amendment will reduce the number of surplus GGAS certificates at 1 July 2011 by an expected four million. The bill also provides that no new applications for accreditation under GGAS will be accepted from 1 January 2010, or another date to be specified by regulation. As the CPRS will not incorporate energy efficiency trading requirements, the New South Wales Government has already transferred the majority of the GGAS energy efficiency incentives into the New South Wales Energy Savings Scheme.

The Energy Savings Scheme sets a mandatory energy efficiency target for electricity retailers. It commenced on 1 July this year and is estimated to save 8.5 million megawatt hours of electricity in the first four years, or about 8.5 million tonnes of carbon dioxide. But, of course, GGAS is not the only measure of the New South Wales Government's longstanding commitment to environmentally responsible energy practices. That is what this Government stands for, unlike the Opposition, and particularly the Federal Opposition, which is now going in a completely reverse direction from the rest of the world. The New South Wales Government has been a driving force in supporting the renewable energy industry. New South Wales is already powering ahead with projects supporting the renewable energy industry and boosting green collar jobs.

The House will be aware that just this month the Government announced its new Solar Bonus Scheme, which will offer the most generous incentives in Australia for people who produce renewable energy at home. Renewable energy, which, by feeding energy back into the grid, will pay off the cost of the installation of that energy-saving mechanism on an average home over some eight years. Of course, technology will improve as we advance, and will become cheaper per unit. New South Wales has established GreenPower, a voluntary program through which customers can choose to purchase renewable energy. GreenPower is now a national program. I know that many members of Parliament, and all Ministers and former Minsters, have chosen to link voluntarily into the GreenPower grid and participate in that voluntary program. Participants choose to purchase renewable energy, at a slightly dearer price, but it is far more efficient and practical as far as the environment is concerned.

The Government has also established six Renewable Energy Precincts to further encourage the renewable energy industry in New South Wales. And we have cut red tape for renewable energy generation projects that will generate more than 30 megawatts of electricity by allowing them to benefit from critical infrastructure status in the planning process. The Government has waived planning costs until 30 June 2011 for renewable energy projects being developed under Critical Infrastructure Planning laws. That should be a great incentive for organisations and businesses to jump on the bandwagon and participate in that scheme. These initiatives are among many more. The changes in this bill are important. By making these changes we are providing GGAS participants who have helped offset carbon emissions to the tune of an enormous 90 million tonnes with an increased capacity to transition their greenhouse reduction activities to the CPRS. This is wonderful legislation that is well and truly taking the future into account, and making sure that we look after our environment in the future. It is the hallmark of this Labor Government. For those reasons I commend the bill to the House.

Mr MICHAEL RICHARDSON (Castle Hill) [8.50 p.m.]: The Electricity Supply Amendment (GGAS) Bill 2009 is very similar to a bill, introduced in June, that passed through this House and was second read in the other place before being amended and withdrawn because of opposition in the other place. Some very sensible concerns were raised in relation to that bill. The bill now before the House is not markedly different from the bill that came through this place in June. Indeed, large slabs of the second reading speech in the other place are the same as the agreement in principle speech read by the member for Shellharbour in June. For example, in June the member for Shellharbour said:

> In 2003 New South Wales commenced the first mandatory greenhouse gas emissions trading schemes in the world. The Greenhouse Gas Reduction Scheme [GGAS] was designed to reduce emissions from the use of electricity in New South Wales and to encourage activities that offset the production of emissions.

In November the Minister in the other place said:

> On 1 January 2003 New South Wales commenced one of the first mandatory greenhouse gas emissions trading schemes in the world. The Greenhouse Gas Reduction Scheme, or GGAS, was designed to reduce emissions from the use of electricity and to encourage activities that offset the production of emissions.

In June the member for Shellharbour also said:

> New South Wales strongly supports the introduction of a national emissions trading scheme to deliver the most cost-effective and equitable reduction of greenhouse gas emissions.

In November the Minister in the other place also said:

> The New South Wales Government strongly supports the introduction of a national emissions trading scheme to deliver least-cost emissions reduction.

The member for Shellharbour further said in June:

> The bill proposes legislative amendments to the Electricity Supply Act 1995 that will allow for the reduction in the number of surplus GGAS certificates at the end of GGAS.

The Minister in the other place further said in November:

> It proposes legislative amendments to the Electricity Supply Act to allow for a reduction in the number of surplus GGAS certificates remaining at the end of GGAS.

There were very few changes to the bill but those that were made were important because the Government, as happens so often, got the legislation wrong. It looks as though the Government has discovered that its transferral of GGAS credits to the Federal Government's mooted Carbon Pollution Reduction Scheme—I say mooted because it failed to pass through the Senate today—

Ms Lylea McMahon: What are you, an extremist? Are you siding with the extremists?

Mr MICHAEL RICHARDSON: It is a Federal matter. It is not as straightforward as indicated back in June, not that the second reading speech gave any hint of that. In fact, one would think from reading the second reading speech that the other debate had never been had. The easiest thing for me to do in this debate would be to do what the Government has done—that is, to reread my speech from June, but I will refrain from doing that. However, I will reiterate for the benefit of the member for Shellharbour and for the benefit of the Leader of the House, who suggested there was flawless empirical data on which his comments had been based, that the GGAS scheme was fatally flawed—

Ms Lylea McMahon: As opposed to the climate change sceptics and extremists in your camp.

Mr MICHAEL RICHARDSON: I have never been a climate change sceptic, but I do have some problems with an emissions trading scheme being introduced ahead of Copenhagen. Perhaps the member for Shellharbour could explain, for the benefit of the House, why her Federal counterparts want to do that. I reiterate that the GGAS scheme was fatally flawed. According to the University of New South Wales Centre for Energy and Environment, 70 per cent of the projects were pre-existing. The Minister is only half right when he says—and the Leader of the House repeated it today—that "To date, over 91 million abatement certificates have been created under GGAS. That means over 90 million tonnes of greenhouse gases have been offset under the scheme." In fact, more than 91 million abatement certificates may have been created but that does not mean 91 million tonnes of carbon dioxide equivalent have been offset—far from it. The real figure is closer to 23 million tonnes, which makes GGAS a very costly exercise in spin.

One of the projects that was not pre-existing was giving away energy-saving light bulbs and water-saving showerheads. The member for Shellharbour should listen to this because she thinks that GGAS is so flawless. More than 26 per cent of abatement certificates that were written were for compact fluorescent lights and showerhead giveaways. Before 2007 some 9.5 million abatement certificates, worth more than $118 million, were written for light bulbs and showerheads. The Independent Pricing and Regulatory Tribunal estimated initially that 80 per cent of the mini-fluorescent globes that were handed out free of charge at shopping centres would be installed. But the real figure—this was the discovery of the Independent Pricing and Regulatory Tribunal, not something that I have invented—proved to be that just 40 per cent of the bulbs were installed and 60 per cent were being stored in cupboards. That meant that $60 million of electricity consumers' money was spent on storing light bulbs in cupboards. It also meant that millions of tonnes of greenhouse gas abatement simply did not occur.

When the Independent Pricing and Regulatory Tribunal realised its mistake, it halved the number of certificates for bulb giveaways. Of course, the market for the abatement certificates collapsed as a result, and companies like Easy Being Green, which had been set up primarily to dole out the light bulbs, were forced to

sack hundreds of workers. It obviously was not so easy being green. When one looks at the average price a year or so ago of a New South Wales greenhouse gas abatement certificate of $15 and considers that because 70 per cent of the projects were pre-existing, and an incredible proportion of the new projects were not fair dinkum, one ends with a price per tonne of carbon abatement of more than $50—more than twice the cost of abating a tonne of carbon emissions in the European Union.

Still, that seems good compared with the $17,000 the Government paid the Bays Community Group on the Central Coast under the Community Grants Program of its Climate Change Fund to abate a single tonne of carbon emissions. That money was paid to install energy-efficient lighting, insulation, an entrance awning and a solar hot water system at the group's community hall. Cost and effectiveness are not considerations for this Government. It could have offset the entire 2,076 tonnes of carbon dioxide under the Climate Change Fund, the equivalent of taking—

Ms Lylea McMahon: I invite the member for Castle Hill to table his previous speech for the benefit of everybody, which would save him having to read it onto the record. We are all capable readers.

Mr MICHAEL RICHARDSON: Is the member for Shellharbour taking a point of order or is she talking over the top of me?

ASSISTANT-SPEAKER (Mr Grant McBride): No-one ever talks over the top of the member for Castle Hill.

Mr Daryl Maguire: She has invited you to table your speech. That would be a first. That is unheard of.

Mr MICHAEL RICHARDSON: I have some other comments to make relating to the amendments to this legislation. It could have offset the entire 2,076 tonnes of carbon dioxide under the Climate Change Fund—the equivalent of taking just 500 cars off the road—which would be a saving through the pure energy section of this program for just $50,000. Instead, the Government spent $1.4 million, so the average price for abating a tonne of carbon dioxide equivalent was $684. That demonstrates how profligate this Government is with other people's money and how shallow its commitment to reducing greenhouse gas emissions really has been. Under the Kyoto Protocol, carbon reduction schemes are accredited only if they would not proceed without the extra financial incentive of carbon credits. Therefore 70 per cent of GGAS certificates would not have been recognised. If the Federal Government's Carbon Pollution Reduction Scheme is designed to accord with Kyoto, one really has to wonder how it can incorporate GGAS into the scheme.

There are some differences between this bill and the one introduced in June. The original bill failed to give reasonable notice for implementing the new arrangements, and did not take into account that the Carbon Pollution Reduction Scheme is planned to operate on a financial year basis, whereas GGAS works on a calendar year basis. How it got the transition bill so wrong really eludes me. Fortunately the new bill takes both of these issues into account. That occurred after the Government consulted with the industry. The bill inserts a new sub-section (3) into section 97KB of the Electricity Supply Act, as follows:

> The repeal of any provisions of this Part takes effect on the day (being a day not earlier than the day on which the proclamation is published on the NSW legislation website) specified in the proclamation.

I hope that is clear to everyone, and I especially hope the member for Wagga Wagga understands that. The bill also adds some extra definitions to section 97AB but removes the amendment to sections 43EI and 97HD that would have seen the words "head of the Cabinet Office" deleted—generations of heads of the Cabinet office will be grateful for that. There are also amendments to sections 97B and 97BC relating to the State greenhouse gas benchmark and principles for determining greenhouse gas benchmarks for benchmark participants. The benchmark participants are certain large users of electricity who, like the electricity retailers, are required to meet certain benchmarks or pay a penalty. Proposed section 97HF headed "Annual report by Tribunal" says inter alia:

> The Tribunal …

that is the Independent Pricing and Regulatory Tribunal—

> … must prepare and forward to the Minister a report on the extent to which benchmark participants have complied, or failed to comply, with greenhouse gas benchmarks during a compliance period.

It seems clear, even on a cursory glance of the legislation and from the comments made by the Government, that the Government rushed through totally inadequate legislation earlier in the year. It has identified a number of issues that needed to be addressed. This bill would appear to me to be a perfect demonstration of the Government's incompetence. The member for Shellharbour said in her agreement in principle speech in June, "The bill will signal the end of the New South Wales greenhouse gas abatement scheme." I wonder whether she still says that today. Are we ever going to rid ourselves of this ill-conceived, inadequate, extravagantly useless scheme? Will this bill do the job or is it going to take another couple of goes to finally lay the corpse of GGAS to rest?

Ms LYLEA McMAHON (Shellharbour—Parliamentary Secretary) [9.02 p.m.], in reply: I thank the member for Manly, the member for Riverstone and the member for Castle Hill for their contributions to this debate. The New South Wales Government supports the introduction of a national emissions trading scheme to enable the delivery of least-cost emissions reductions. The Greenhouse Gas Reduction Scheme [GGAS] commenced in 2003 and was designed to reduce emissions from the use of electricity and to encourage activities that offset the production of emissions. Since its commencement GGAS has reduced greenhouse gas emissions by more than 90 million tonnes. The Government has been clear in its intention to end GGAS once the Commonwealth commences a national carbon pollution reduction scheme, or CPRS.

The Electricity Supply Amendment (GGAS) Bill 2009 seeks to facilitate a smooth transition from GGAS to the CPRS. The New South Wales Government's successful lobbying of the Commonwealth Government for a $130 million assistance package for New South Wales will assist in reducing the impact of the transition from GGAS to the CPRS for those participants adversely affected by the transition. The cash assistance will go to landfill gas and avoided methane generators, as well as holders of unused GGAS certificates. In return for this assistance package, the New South Wales Government has agreed to make an in-kind contribution towards reducing the number of surplus GGAS certificates available at the proposed end of GGAS in 2011.

The bill seeks to follow through on the New South Wales Government's commitment by stopping new applications for accreditation under GGAS from 1 January 2010 or another date prescribed by regulation. The ability to change the date by regulation allows the Government to take action in the event CPRS does not eventuate as anticipated. No compensation will be payable by the State in relation to changes to the legislative framework for GGAS or its termination. This is clearly set out in the bill. The bill also removes opportunities to create GGAS certificates from generation projects that were commissioned prior to the commencement of GGAS, known as category A projects, from 1 July 2010 or another prescribed date. In addition, the bill allows for technical changes to facilitate the move to the CPRS. Such changes include allowing for the compliance period for GGAS to end just prior to the commencement date of the CPRS.

Consultation on the proposed changes has taken place with GGAS participants and other stakeholders. Stakeholders have requested that these changes be implemented as soon as possible to bring policy certainty to the GGAS market. The bill provides the certainty and signals that GGAS will indeed end on the commencement of the CPRS. It also makes it clear that GGAS participants and those developing new projects will need to comply with the national arrangements that will exist under the CPRS. In relation to the issues raised by the member for Manly, industry has been consulted at every stage in this process except where, due to market sensitivity, it would have been inappropriate to do so. Industry consultation, engagement and certainty are a high priority for the New South Wales Government. The inclusion of category A projects allowed proper recognition of early action to abate greenhouse gas, but in the context of the Commonwealth compensation package it is appropriate to discontinue their creation to reduce the number of surplus certificates.

With respect to the issues raised by the member for Castle Hill, the bill was amended due to requirements to accommodate the Commonwealth compensation package. The good news regarding this successful scheme has not changed since the earlier bill was introduced. The member is no doubt rejoicing that, as Tony Abbott now leads the Coalition federally, he no longer has to pretend to care about the environment. The member can rest assured that the Independent Pricing and Regulatory Tribunal [IPART] independently audited the abatement certificates. IPART did make changes as the scheme progressed but that is what pioneering schemes are all about—leading the way. It is not something that members opposite would know about now that their party has been captured federally by the extremist right. It is ironic to be lectured on greenhouse gas abatement by the party of climate change deniers. Today of all days it may have been advisable for the "pollution party" to refrain from giving their advice on how to reduce pollution. I commend this bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

TRADE MEASUREMENT (REPEAL) BILL 2009

Agreement in Principle

Ms VIRGINIA JUDGE (Strathfield—Minister for Fair Trading, Minister for Citizenship, and Minister Assisting the Premier on the Arts) [9.07 p.m.], on behalf of Ms Carmel Tebbutt: I move:

> That this bill be now agreed to in principle.

As this bill was introduced in the other place on 11 November 2009 and is in the same form, the second reading speech appears at pages 52 to 54 of the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG APLIN (Albury) [9.07 p.m.]: I lead for the Opposition in relation to the Trade Measurement (Repeal) Bill 2009. I state at the outset that the Opposition will not oppose this legislation. The explosive Italian-American physicist Enrico Fermi once said of his experiments:

> There are two possible outcomes: if the result confirms the hypothesis, then you've made a measurement. If the result is contrary to the hypothesis, then you've made a discovery.

I have had a look at the Trade Measurement (Repeal) Bill 2009 and this is no discovery. The bill simply confirms the task that was set when, in February 2006, the Council of Australian Governments identified trade measurement as one of six regulatory "hot spots" and asked the Ministerial Council on Consumer Affairs to develop a recommendation and timeline for the introduction of a national trade measurement system. It was considered necessary because changes to legislation have been introduced at different times in different jurisdictions leading to inconsistencies and different practices or interpretations across the nation.

On 13 April 2007, following a review of State and Territory trade measurement systems, the Council of Australian Governments agreed to introduce a single national system of trade measurement. This will extend to petrol bowsers, shop scales, and anything sold by measurement. It captures the approval, maintenance and verification of reference standards. Powers and responsibilities will be moved to the Commonwealth and the scheme will be administered and funded by the Commonwealth. We are now entering the transition phase. From now until 30 June 2010 the New South Wales Office of Fair Trading will continue to provide trade measurement services for New South Wales. From 1 July 2010 Commonwealth administration will commence. The National Measurement Institute [NMI] will take responsibility for trade measurement nationwide. This will make the NMI responsible for the full spectrum of measurement, from the peak primary standards of measurement to measurements made at the domestic trade level.

The bill contains extensive transition provisions for matters such as penalties and things as simple as recognition of verification marks left by an inspector. The bill makes minor amendments to section 9A of the Fair Trading Act covering arrangements for the sharing of information between government agencies. Schedule 1.1 amends the Fair Trading Act 1987 to ensure the information-sharing arrangements set out in section 9A are flexible. The director general may approve these sharing arrangements in addition to being entered into by the director general. Schedule 1.1 also amends section 9A so that "such arrangements may relate to information of a type prescribed by the regulations (in addition to the types of information already specified in that section)".

Importantly, this bill does not mark the end of the involvement in trade measurement by the New South Wales Government. Having common legislation is only part of the picture. The reality is that individual States and offices can, over time, develop their own procedures and office interpretations of laws and regulations. This problem, too, will be diminished by a national approach. Nevertheless, traders should be encouraged to report to the Office of Fair Trading any difficulties they encounter with the new regime, including any new or unusual

interpretations of the legislation or policies and processes of implementation. It will be up to the Office of Fair Trading, at least for some time after 1 July 2010, to keep watch over trade measurement and whether the national scheme is serving traders and consumers well.

I support this national project because it should facilitate improved freedom of trade and commerce across the nation by removing unnecessary economic and legal barriers and inconsistencies. It should also improve market confidence, fairness and consumer protection. Finally, I thank the staff of the Measurement and Technical Branch of the New South Wales Office of Fair Trading, together with the regional inspectors and all other officers of Fair Trading who have been involved in the administration and supervision of trade measurement throughout the State. Their work is appreciated.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [9.10 p.m.]: At this late hour it may sound eccentric to say that I enthusiastically support the Trade Measurement (Repeal) Bill 2009. Today, 108 years after Federation, we still are trying to reach commonality across the nation. It is exciting legislation, and not before time. I congratulate the Minister for Fair Trading and the officers of the Department of Fair Trading—a great department that I have had personal relations with as a former Minister for Fair Trading. I thank them for the work they have done over many years and continue to do.

I strongly support the Trade Measurement (Repeal) Bill 2009. As has been indicated eloquently by the member for Albury, this bill is necessary to allow the Commonwealth to assume full responsibility for trade measurement legislation and to make arrangements to deal with matters that may need to be finalised under New South Wales legislation following its repeal. As members know, many transitional matters need to be dealt with when new laws are introduced, such as the repeal of laws that existed in the past. The bill will repeal the New South Wales legislation on 1 July 2010, when the Commonwealth will assume full responsibility for the new national trade measurement system.

The bill provides for dealing with matters, which may have started before the repeal date of 1 July 2010 but need to be finalised after that date, as if the New South Wales legislation were still in force. For example, if an offence has been detected before 1 July 2010, the bill enables that offence to be investigated after that date and for legal proceedings to be commenced, if required. The bill also will enable penalty notices that have been issued before 1 July 2010 and unpaid fees and charges to be finalised after that date. These transitional powers will enable a smooth changeover from State legislation to Commonwealth legislation.

Measuring instruments or pre-packed products that may have been seized by a government inspector as part of an investigation will be able to be dealt with after 1 July 2010 as if the New South Wales legislation were still in place. In order to maintain procedural fairness, the owner of a licensed public weighbridge or a licensed measuring instrument repair and certification business will have the right to appeal a decision after 1 July 2010. This guarantees personal safeguards. This right applies to certain decisions made by Fair Trading as the regulator before that date. These decisions include the imposition of a condition on the licence or its suspension or cancellation.

We can be confident that existing trade measurement services will be maintained in New South Wales after the transition to the Commonwealth national system. The arrangements made under the Council of Australian Governments April 2007 agreement on national trade measurement reform include the Commonwealth's commitment to ensure the maintenance of existing service standards and levels. The Commonwealth has asked the States and Territories, including New South Wales, to advise on suitable indicators and statistics that could be used to monitor trade measurement service levels in each of the jurisdictions. This monitoring has already commenced and it is proposed that it will continue after the transition. This will enable before-and-after comparisons to be made. Again, this is an essential feature.

The States, the Territories and the Commonwealth have been working together to develop detailed transitional arrangements since the Council of Australian Governments agreement in 2007. To ensure existing levels of service the National Measurement Institute, the Commonwealth agency responsible for trade measurement, has established a number of working groups. These groups, which are made up of representatives from the States and Territories, advise the Commonwealth on the transition and the operation of the national system to ensure continuity of service. The Commonwealth has introduced national trade measurement legislation based on the uniform legislation of the States and Territories. This means the Commonwealth will have powers to carry out the trade measurement functions currently undertaken by New South Wales and other

jurisdictions. It is an indication that the uniform legislation has stood the test of time since its introduction in 1991. I am advised that the Commonwealth also plans to regularly review its trade measurement legislation to take account of the development of new measuring instruments or other marketplace changes.

The Commonwealth has made offers of employment to all trade measurement staff in the States and Territories, including New South Wales. That will guarantee continuity of the expertise that exists in those States and Territories and also the employment of personnel currently employed under the State and Territory authorities. It will enable staff to retain their jobs, but they will work under the national system for the Commonwealth Government. It also will ensure that expertise in trade measurement regulation stays with the Commonwealth system. It is understood that the majority of staff have accepted the Commonwealth offer. I congratulate them on their appointments. The Commonwealth will ensure all staff are adequately trained and will continue to develop their skills and knowledge in the workplace.

The Commonwealth currently is developing arrangements to train staff to operate under the new national trade measurement system. It is working with other stakeholders and Government Skills Australia on the development of recognised trade measurement qualifications for government inspectors. I understand it also is intended to develop recognised training for the operators of public weighbridges and for private verifiers of measuring instruments. Work is progressing on the development of a national information system that will include data about the verification of measuring instruments and public weighbridges. This information will greatly assist with the planning of future resources to meet national verification requirements. How much more efficient can it be? We will have the one type of data and verification right across the nation, rather than a plethora of different types of documents and data presented to the community. It will negate the need to change from one type of data to another once one crosses a State boundary. That will no longer be necessary under the new process.

To help keep State and Territory trade measurement staff informed of progress with the transition to the new national system, the Commonwealth has set up an electronic extranet system. Staff can access this system and provide comments on developments and proposals. This recognises that we are moving into a new technological age that transcends State boundaries and even national boundaries. In August 2009 the Commonwealth launched an electronic newsletter for both servicing and public weighbridge licensees. This will help in readying licensees for the commencement of the new system on 1 July 2010.

In conclusion, planning for the transition to the new national system is well advanced and New South Wales residents and businesses should be confident that current New South Wales service levels and standards will be maintained into the future. Once again New South Wales is leading the way nationally. In cooperation with the Commonwealth, we are doing our best to bring the uniform laws of the States and Territories into the twenty-first century, particularly in relation to trade standard measurement. Again I congratulate the Minister for Fair Trading, the Hon. Virginia Judge, and her very competent and able staff of the Department of Fair Trading, a great department with whom I have had many associations over many long years.

Ms VIRGINIA JUDGE (Strathfield—Minister for Fair Trading, Minister for Citizenship, and Minister Assisting the Premier on the Arts) [9.18 p.m.], in reply: I thank all members for their contributions, particularly the hardworking and dedicated member for Riverstone, the Hon. John Aquilina. He has always been interested in consumer protection. It is an issue that is close to his heart. I thank him for his contribution over many years in this area. I thank my ministerial staff for all their hard work, and I thank the staff of the Office of Fair Trading for the sterling job that it does.

As members would be aware, the aim of the Trade Measurement (Repeal) Act 2009 is to repeal New South Wales trade measurement legislation and to make the necessary transitional arrangements. The Commonwealth will assume full regulatory responsibility for the national trade measurement system on 1 July 2010 and, as such, there will be no need for the New South Wales legislation from that date. The bill will allow for the transfer of information from New South Wales to the Commonwealth to provide access to New South Wales licensing and compliance history, and will make minor amendments to the Fair Trading Act to increase the flexibility of information sharing arrangements for the seven Council of Australian Governments [COAG] national reforms that involve Fair Trading.

The COAG agreement of April 2007 on national trade measurement reform is for the Commonwealth to assume full responsibility for the national trade measurement system from 1 July 2010. The Commonwealth has the constitutional power to make laws regarding weights and measures. The agreement did not provide for any involvement of State or Territory governments in the administration of the national trade measurement

system after that date. In the event that a problem arose with the delivery of trade measurement services in New South Wales after 1 July 2010 the New South Wales Government could deal with it through the appropriate channels at the time. That may involve communications with the Commonwealth Minister responsible for the Commonwealth agency delivering national trade measurement services, or through a COAG channel.

I am proud to say that Fair Trading provides a high level of trade measurement services to ensure accuracy of measurement in the community. In the past financial year the Office of Fair Trading conducted 4,700 inspections of traders with over 50,000 items inspected. These were visual inspections such as checking to see whether certification marks were present on measuring instruments, or whether there was a quantity statement on pre-packaged goods on our supermarket shelves. I am advised that 31 penalty notices were issued to 21 traders with penalties totalling $10,780, and two traders were convicted of 15 offences with fines totalling over $3,300. Fair Trading also technical tested a further 10,500 items. An example of this would be the testing of petrol bowsers for accuracy. On one of my regional visits I witnessed Fair Trading officers testing petrol bowsers at a service station, which was excellent.

I understand that this testing found a 97 per cent compliance rate in relation to acceptable accuracy. This very high compliance rate creates trust and ensures that members of the community can be confident that they are getting what they paid for. However, it is also an indication that traders are providing accurate measurements for sale. While this bill may signal the end of the involvement of Fair Trading in trade measurement regulations, I think these statistics speak pretty loudly of our commitment to the good hardworking citizens in New South Wales and ultimately, and importantly, to our economy. I take this opportunity again to thank all the staff members of Fair Trading who have been involved in the regulation of trade measurement over many years for their hard work.

I again thank all members for their contribution to debate on this bill. The reform of trade measurement is one of the many regulatory reforms agreed to by COAG that New South Wales is working towards with the rest of this great nation. The passing of this bill supports these Council of Australian Government agreements and will help lead to a seamless national economy—a fantastic thing for everyone. I commend this bill to the House.

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

Motion agreed to.

Bill agreed to in principle.

Passing of the Bill

Bill declared passed and returned to the Legislative Council without amendment.

EXECUTION OF SEARCH WARRANTS ON MEMBERS' OFFICES

Consideration of the Legislative Council's message of 25 November 2009.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [9.23 p.m.]: I move:

That this House:

(1) notes the memorandum of understanding forwarded with the message dated 25 November 2009 from the Legislative Council;

(2) authorises the Speaker to enter into a memorandum of understanding with the Commissioner of the Independent Commission Against Corruption concerning the execution of search warrants on members' offices; and

(3) send a message to the Legislative Council advising it accordingly.

The message from the Legislative Council that is currently before the House arises from members' concerns about the execution of a search warrant in 2003 by the Independent Commission Against Corruption [ICAC] against a member of the Legislative Council, the Hon. Peter Breen, MLC. Over the past six years a fair bit of history and a lot of media coverage have been associated with the execution of this search warrant. Prior to the attendance by ICAC officers attendance at Parliament House to seize the documents and electronic files of a member the New South Wales Parliament had not seen any need to formally adopt the protocol procedure to be

followed in the execution of search warrants on the premises of members; but the issues of parliamentary privilege arising from that search led to the Privileges Committee of the Legislative Council holding two inquiries into the process that the ICAC had followed.

Ultimately, the committee found that the seizure under warrant constituted a breach of the immunities of the House. Under parliamentary privilege the proceedings of the Parliament are immune from impeachment or question in courts and tribunals. Members themselves have no immunity from investigation under statutory authority or from compulsory processes such as subpoenas or search warrants. However, article 9 of the United Kingdom Bill of Rights applies so as to prevent the seizure of a document under search warrant where, as a natural consequence of the seizure, a questioning or impeaching of proceedings in Parliament within the meaning of article 9 necessarily results. This principle has been given statutory form in Australia through section 16 (2) of the Commonwealth Parliamentary Privileges Act 1987.

The Standing Committee on Parliamentary Privilege and Ethics and the Legislative Council Privileges Committee have consistently asserted that documents that are subject to parliamentary privilege are immune from seizure under a search warrant. In the course of considering the privilege issues arising from the ICAC's seizure of documents and electronic files from the Hon. Peter Breen, MLC, the Privileges Committee recommended that protocols be developed for the execution of search warrants on members' offices and procedures for analysis and determination of which documents attracted privilege. In March 2004 the Privileges Committee tabled its second report on the parliamentary privilege aspects of the ICAC's seizure of documents and reported on the protocol used to determine and deal with the dispute over certain seized documents.

The Legislative Assembly Committee on Parliamentary Privilege and Ethics of the Fifty-third Parliament formally considered the Legislative Council draft protocol as recommended in the 2004 report of the Legislative Council Privileges Committee. The minutes of the committee's meeting held on 9 June 2005 record that the committee noted that the Privileges Committee had forwarded its proposed draft protocol for comment by the ICAC and had subsequently incorporated some of the amendments suggested by the ICAC. It was further noted that there remained some areas of disagreement. The two committees sitting in a joint session never formally considered the matter. Ultimately, the Legislative Council Privileges Committee tabled its final report on a protocol for execution of search warrants on members' offices on 28 February 2006.

The protocol developed by the Privileges Committee forms the basis of the memorandum of understanding that is now before the House for consideration. The protocol deals with search warrants covering the process to be followed where the ICAC proposes to execute a search warrant on the Parliament House office of a member of the New South Wales Parliament. As noted in the committee's report, the Legislative Council and the commission have largely settled the areas of difference arising from the protocol originally adopted by the Privileges Committee to the point that the protocol is now acceptable to both the Parliament and the commission. The memorandum and associated processes are designed to ensure that search warrants are executed without improperly interfering with the functioning of Parliament and so that its members and their staff are given a proper opportunity to claim parliamentary privilege in relation to documents in their possession.

The agreed process for the execution of a search warrant over the premises occupied or used by members is spelled out in procedure 9 and covers procedures prior to obtaining or executing a search warrant, procedures to be followed during the conduct of a search warrant, and obligations at the conclusion of a search. The message from the Legislative Council invites the Legislative Assembly to pass a resolution authorising the Speaker to enter into a memorandum of understanding with the Commissioner of the ICAC confirming that procedure 9 of commission's operation manual and, in particular, section 10 provides a suitable basis for the execution of search warrants on members' offices by the commission. The memorandum of understanding and the protocol have been the subject of an inquiry by the Standing Committee on Parliamentary Privilege and Ethics, and the report, which was tabled by the Chair on 27 November and noted on 28 November, recommends:

> That the House resolve that the Speaker enter into the Memorandum of Understanding with the ICAC Commissioner concerning the execution of search warrants on members' offices, as set out in the Legislative Council's message to the Legislative Assembly dated 25 November 2009.

The committee also noted a number of recent events involving search warrants in the United Kingdom House of Commons and in the United States Congress and considered that there is a need for parliamentary privilege to be confirmed by either formal protocol or legislative amendment. Consequently, the recommendation in the committee's report calls on the Government to consider introducing legislation similar to section 16 of the Commonwealth Parliamentary Privileges Act to confirm the protection of article 9 of the Bill of Rights. The

motion that I have just moved authorises an agreed protocol between the Presiding Officers and the Commissioner of the Independent Commission Against Corruption regarding the execution of search warrants on the Parliament House offices of members. This memorandum of understanding will serve as a confirmation and preservation of the privilege necessary to maintain the balance between the role and function of the courts and Parliament in our constitutional system. I commend the motion to the House.

Mr GREG SMITH (Epping) [9.31 p.m.]: The issue of search warrants being executed by the Independent Commission Against Corruption or any other body, such as the Police Integrity Commission, the Australian Crime Commission or some other agency, is fundamentally important. It is clear that the Parliament, through several committee investigations and negotiation with the Independent Commission Against Corruption, has been provided with a very carefully worded protocol, or memorandum of understanding, approval for which is currently being sought. The Speaker and the President entering into a memorandum of understanding with the Commissioner of the Independent Commission Against Corruption will give certainty as to what should happen should there be an occasion when the Independent Commission Against Corruption wishes to search a member's office.

The particular provisions that apply to the search of such an office commence at page 16, paragraph 10, on page 73 of report 47 of November 2009. That item, headed "Execution on Parliamentary Office", is part of the operations manual and it is called Procedure No. 9. Clearly, if a member has in his office stolen goods or evidence of other things such as drugs or other contraband, or has used his office for matters that might end up in the courts, such as sexual assault, carnal knowledge or matters of that sort, then that member, in the normal course of events, would not be protected against a search.

The situation becomes complex when there are documents in the possession of a member that are draft copies of speeches or submissions to be made to a committee of which the member is a member, or perhaps material that is going to be used as the basis for a speech or a call for papers in the upper House. This protocol, or memorandum of understanding, appears to address those problems. Item 2 in paragraph 10 states that if the premises to be searched are in Parliament House, the Executive Director, Legal, will contact the relevant Presiding Officer prior to execution and notify that officer of the proposed search, and various other officers are nominated in the case of a Presiding Officer not being present. To minimise the potential interference with the performance of a member's duties the Executive Director, Legal, unless it would affect the integrity of the investigation, where it is feasible, will contact the member, or a senior member of his or her staff, prior to executing the warrant, with a view to agreeing on a time for execution of the warrant.

As far as possible a search warrant should be executed at a time when the member or a senior member of his or her staff will be present. That is the normal procedure for the execution of search warrants under the Law Enforcement (Powers and Responsibilities) Act. An occupier's notice is normally served on the person who is at the house so that that person can decide whether or not to allow entry or to seek an injunction, on legal advice, to stop a search. Members should not have anything to hide but if, for example, a member was suspected of being involved in taking bribes or falsely claiming a travelling allowance or some other payment from the Parliament then parliamentary privilege could not protect the member. The member is protected by self-incrimination privilege—they call it the Fifth Amendment in America—from answering questions that might incriminate. But that generally would not protect the seizure of documents that might incriminate, though I am not sure that that question has ever been decided in relation to members of Parliament.

There are provisions that allow members to have the right to get legal advice to claim parliamentary privilege. Item 14 of paragraph 10 states that where there is a contest and a ruling is sought as to whether documents are protected by parliamentary privilege, the member, the Clerk and a representative of the commission will jointly be present at the examination of the material. The member and the Clerk will identify material which they claim falls within the scope of parliamentary privilege. Ultimately, it seems that it is the President or the Speaker who decides the question of whether parliamentary privilege attaches or does not attach to the documents. I believe that is putting a lot of responsibility on the Presiding Officers and that those questions are better decided by a court. But, of course, generally courts do not interfere in our business.

Issues of parliamentary privilege have been before the courts before. I notice in the report that certainly the Federal Court has looked at such issues, and I seem to recall a question of parliamentary privilege in relation to former Treasurer Egan and also in proceedings against Justice Murphy. I am aware that a number of searches were executed in this Parliament in the office of former member Mr Orkopolous and surrounding areas, and there was also a test done for traces of drugs and other forensic evidence. I do not believe there was ever any challenge or question of a challenge to that; it was a police investigation. I wonder whether we should also look

at having a protocol, or memorandum of understanding, with the police, because, particularly in areas where there could be corruption allegations being investigated by the police, the same issues that arise in relation to the Breen search warrant may arise there.

Normally if one wants to stop a police search one applies for an injunction. All these measures are very expensive, but we are talking mainly about offices here in the Parliament. I am sure also that not much consideration has been given to the searching of electorate offices. A member of Parliament could have material in his or her electorate office that is covered by parliamentary privilege, such as information pertaining to the preparation of speeches. This information may be on a laptop or personal computer within that office. Obviously, the Presiding Officers would need to be involved in any searches of those offices.

Constituents seeking legal advice often visit members of Parliament who are qualified lawyers. I am always at great pains to resist providing any such advice. Nevertheless, any advice given by a member of Parliament may be considered as having the same status as that offered by a solicitor or barrister. Any documents or similar items that a constituent leaves with a member of Parliament may not be protected by parliamentary privilege because the matter that is the subject of those items would relate to the constituent only. On one occasion someone wanted to leave with me documents that appeared potentially defamatory. I asked the person not to leave the documents, as I would have to produce them if subpoenaed because I did not believe I could claim parliamentary privilege for them.

According to the information contained in the message we are considering, that was the correct decision. It is important that we have this memorandum of understanding because, clearly, the search of the office of Peter Breen was excessive. Members of Parliament must be protected from excessive searches, particularly when their parliamentary privilege may be infringed. Parliamentary privilege is a precious privilege that must not be abused and must be protected. From my examination, the documents appear to be in proper order and I certainly do not object to them.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [9.41 p.m.], in reply: I thank the member for Epping for his contribution to this debate. He raised a number of issues that possibly require further investigation by the Standing Committee on Parliamentary Privilege and Ethics—for example, extending the adaptability of the memorandum of understanding to other lawful authorities, such as the police. Whilst the memorandum proposes a more clear-cut situation than that which occurred six years ago when the Independent Commission Against Corruption [ICAC] confiscated records and computers after entering the parliamentary office of the Hon. Peter Breen, MLC, nonetheless, the privilege of parliamentary members must be safeguarded.

The member for Epping also raised whether the proposed protocols should apply to electorate offices. Most members of Parliament believe their electorate offices bear the same privileges as our offices within the parliamentary precinct. When I was Speaker I adopted the attitude that, in essence, electorate offices were an extension of the parliamentary precinct. Consequently, any memorandum of understanding applying to the parliamentary precinct would apply also to electorate offices. However, in many cases electorate offices are isolated, and issues of isolation and distance may require further investigation regarding the implementation of this memorandum of understanding, especially as electorate staff are not part of the integrated network within the parliamentary precinct. I thank the member for raising that matter.

The member for Epping said that the memorandum of understanding might put undue stress on the Speaker and the President in respect of their judgement and roles. That also is a crucial issue. Quite often their judgement might have an extreme bearing on whether a certain office or instance may be exempt or fall within the bounds of the memorandum of understanding. Therefore, more thought needs to be given to this issue. It has taken six years to reach this stage but, of course, this place is a dynamic area of activity. Our privileges and their interpretation by us are always subject to scrutiny. Of course, the interpretation of how those privileges are preserved will change from time to time with circumstances, community expectations and interpretation of the current law.

One must never remain idle in relation to these important matters. I conclude my remarks by saying that although the House agrees to establish a memorandum of understanding between the Speaker and the Independent Commission Against Corruption—the other place has also agreed to a similar arrangement between the President and the Independent Commission Against Corruption—that is not an end to the matter because future unforeseen ramifications will necessitate adjustment and change. Of course, for that reason it is important to maintain the work of the Standing Committee on Parliamentary Privilege and Ethics to enable its members to

continue their investigative roles and determine how parliamentary privilege for members of Parliament in both Houses can be preserved and maintained to allow us to continue our work unencumbered in order to best represent our constituents and uphold the laws of the State.

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

Motion agreed to.

Message sent to the Legislative Council advising it of the resolution.

ADJOURNMENT

Motion by Mr John Aquilina agreed to:

That this House do now adjourn.

The House adjourned, pursuant to resolution, at 9.48 p.m. until Thursday 3 December 2009 at 10.00 a.m.