

ABILITY LINKS NSW .....	842
ADJOURNMENT .....	872
ANIMAL WELFARE STANDARDS.....	845
AUSTRALIAN INDIGENOUS EDUCATION FOUNDATION .....	822
BALLINA KOALA COLONY .....	851
BUSINESS OF THE HOUSE .....	821, 823, 823, 825, 825
CITY OF NEWCASTLE RSL ANZAC DAY CEREMONIES .....	823
CRIMES LEGISLATION AMENDMENT (CHILD SEX OFFENCES) BILL 2015.....	851
EAST HILLS ELECTORATE ELECTION CAMPAIGN.....	846
E-CIGARETTES .....	842
ETHNIC COMMUNITIES COUNCIL OF NSW .....	848
FEDERAL GOVERNMENT HEALTH FUNDING.....	872
GENERAL PURPOSE STANDING COMMITTEE NO. 2 .....	825
GENERAL PURPOSE STANDING COMMITTEE NO. 6 .....	826
GENERAL PURPOSE STANDING COMMITTEES .....	851
GOSFORD REGIONAL SHOW .....	819
HUMAN RIGHTS IN NORTH KOREA .....	824
HUNTER REGION AND CENTRAL COAST FLOODS.....	844
IRELAND MARRIAGE EQUALITY REFERENDUM .....	873
LIBRARY AND INFORMATION WEEK.....	821
NATIONAL INFRASTRUCTURE AUDIT REPORT.....	841
NATIONAL PALLIATIVE CARE WEEK .....	819
NATIONAL SORRY DAY AND NATIONAL RECONCILIATION WEEK.....	821
PACIFIC HIGHWAY FEDERAL FUNDING.....	842, 851, 852
PAWS AND RECOVER.....	825
PAYROLL TAX REBATE SCHEME (JOBS ACTION PLAN) AMENDMENT (EXTENSION) BILL 2015 .....	819, 862
PETITIONS.....	825
PRIMARY SCHOOLS SPORTS ASSOCIATION.....	823
PROFESSOR PETER STUTCHBURY .....	820
PUBLIC EDUCATION DAY .....	823
PUBLIC HEALTH (TOBACCO) AMENDMENT (E-CIGARETTES) BILL 2015 .....	819, 832, 852
QUESTIONS WITHOUT NOTICE.....	840
REGIONAL WATER SECURITY .....	850
RIVERINA EASTERN REGIONAL ORGANISATION OF COUNCILS .....	874
RSPCA .....	875
RURAL INDUSTRIES RESEARCH AND DEVELOPMENT CORPORATION RURAL WOMEN'S AWARD 2015.....	844
SAND MINING .....	874
SOCIAL HOUSING.....	847
STATE INFRASTRUCTURE.....	840
TRANS-PACIFIC PARTNERSHIP.....	843
TRANSPORT FOR NSW CONTRACTS.....	849
WESTCONNEX.....	846
WOY WOY MOTOR REGISTRY .....	848



# LEGISLATIVE COUNCIL

Wednesday 27 May 2015

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**The President (The Hon. Donald Thomas Harwin)** took the chair at 11.00 a.m.

**The President** read the Prayers.

## **PUBLIC HEALTH (TOBACCO) AMENDMENT (E-CIGARETTES) BILL 2015**

## **PAYROLL TAX REBATE SCHEME (JOBS ACTION PLAN) AMENDMENT (EXTENSION) BILL 2015**

**Bills received from the Legislative Assembly.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

**Motion by the Hon. Duncan Gay agreed to:**

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

**Bills read a first time and ordered to be printed.**

**Second readings set down as orders of the day for a later hour.**

**Pursuant to sessional orders Formal Business Notices of Motions proceeded with.**

## **GOSFORD REGIONAL SHOW**

**Motion by the Hon. GREG DONNELLY agreed to:**

- (1) That this House notes that:
  - (a) the Gosford Regional Show was held on the weekend of 2 and 3 May 2015;
  - (b) this year marked the 127th anniversary of this important community event; and
  - (c) in 1888 the Gosford Agricultural and Horticultural and Fruit Growers Association was formed, and in the same year organised the inaugural show.
- (2) That this House further notes that:
  - (a) the Gosford Regional Show has become one of the major family events held each year on the Central Coast and is an alcohol-free event;
  - (b) the show this year drew many thousands of families from the Central Coast and beyond;
  - (c) the many attractions included animal and horticultural displays, arts and crafts, baking, cake decorating, photography, vintage machinery, entertainment and carnival rides; and
  - (d) the members of the Gosford Show Committee are Roma Stonestreet [Chairperson], Cathy Soder [Show Secretary], Jennifer Winslade [Treasurer], Chris King [Show Coordinator], Robyn Edmonds-King [Coordinator for Show Girl Competition], Leonie Roberts [Stall Coordinator] and Roland Soder and Andrew Ellem.
- (3) This House acknowledges and congratulates the Gosford Regional Show Committee for, once again, organising a successful event for the Central Coast community.

## **NATIONAL PALLIATIVE CARE WEEK**

**Motion by the Hon. GREG DONNELLY agreed to:**

- (1) That this House notes that:
  - (a) 24 to 30 May 2015 is National Palliative Care Week; and
  - (b) the theme for National Palliative Care Week 2015 is "Dying to talk: talking about dying won't kill you".

- (2) That this House further notes that:
- (a) the week will be marked with a series of events around Australia to raise awareness in the community about palliative care; and
  - (b) National Palliative Care Week serves as an excellent opportunity to deepen community understanding about palliative care.
- (3) That this House encourages all members of the Parliament of New South Wales to engage with their constituents about palliative care in the month of May.
- (4) That this House both acknowledges and congratulates Therese Smeal, President, Linda Hansen, Executive Officer, and the Management Committee of Palliative Care New South Wales for the outstanding work that they are doing supporting and promoting palliative care in this State.

### **PROFESSOR PETER STUTCHBURY**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
- (a) Professor Peter Stutchbury is the 2015 recipient of Australia's highest architectural honour, the Australian Institute of Architects Gold Medal;
  - (b) this gold medal was awarded for his lifetime contributions to architecture through practice, teaching and participation; and
  - (c) this award recognises that he has mastered the art of creating architecture that is, in his words, "environmentally sustainable, culturally specific and is locally embedded and gives a voice to the place each work inhabits".
- (2) That this House notes that:
- (a) Peter Stutchbury was born in Sydney in 1954 and graduated from the University of Newcastle in New South Wales in 1978;
  - (b) as a young man, time in the desert country of western New South Wales allowed Professor Stutchbury to develop an understanding of the Australian landscape and an appreciation that sensitivity is required to ensure its sustainability;
  - (c) Professor Stutchbury has developed a deep appreciation of the Aboriginal way of life and has said "A wise person, government, would nurture the Indigenous people of Australia, who had a refined way of living we've totally ignored"; and
  - (d) the firm of Peter Stutchbury Architecture was founded in 1981 and is well known in Australia and abroad for its innovative approach to sustainability and design.
- (3) That this House notes that:
- (a) Peter Stutchbury's architectural firm has been honoured with 45 Royal Australian Institute of Architects and Australian Institute of Architect [RAIA] awards;
  - (b) in 2001, Peter Stutchbury's work was the major contributor to the University of Newcastle winning the Australian Prime Minister's National Environmental Banksia Award for Sustainable Development;
  - (c) Peter Stutchbury Architecture has won many awards including in 1988 the Cann National Architecture Competition for Outback Mining Museum and in 2008 the International "Living Steel" Competition for extreme climate housing in Russia;
  - (d) in 1998, the firm won the RAIA NSW Ecologically Sustainable Design Award for the Faculty of Nursing and in 2000 and 2008 the Australian Timber Award;
  - (e) Professor Stutchbury was awarded the University of Newcastle Convocation Medal in 2005 for his contributions to the profession of architecture; and
  - (f) since 1993, the firm's work has been exhibited 29 times, including exhibitions in Germany, Luxembourg, Slovenia, New Zealand, South Africa, Namibia, France, the United States of America and Italy at the Venice Architecture Biennale in both 2006 and 2008, and in Japan on numerous occasions.
- (4) That this House notes that:
- (a) Professor Stutchbury's expertise is valued around the world and he has been a member of over 10 international design juries;
  - (b) in 1999, Professor Stutchbury was a professor at Newcastle University;

- (c) in 2004, Professor Stutchbury was visiting Professor of the University of Arizona; and in 2007 at the University of Cape Town, South Africa;
  - (d) in 2008, Professor Stutchbury held the Luis Barragan Chair at the Tecnologico de Monterrey, Mexico, and in 2010 he was a guest teacher at Ghost Studio in Canada;
  - (e) between 2010 and 2011, Professor Stutchbury taught throughout South America, coordinating the 2010 Columbian and 2011 Chilean Master Class, then in Ireland and Taiwan;
  - (f) for his teaching in Mexico, Professor Stutchbury was awarded the Diploma Catedra Luis Barragan; and
  - (g) Professor Stutchbury is a founding director of the Architecture Foundation Australia, a founding member of the Australian Architecture Association and a life fellow of the Australian Institute of Architects.
- (5) That this House acknowledges Professor Stutchbury's outstanding contribution to architecture in Australia and internationally and commends him for his lifetime achievements.

### **LIBRARY AND INFORMATION WEEK**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) Library and Information Week is being held from 25 to 31 May 2015;
  - (b) Library and Information Week promotes all types of library and information services, the expertise and skills of the profession, and the key issues that need to be addressed to secure access to information;
  - (c) the theme of Library and Information Week 2015 will be "Imagine"; and
  - (d) libraries across New South Wales will celebrate with a week of events.
- (2) That this House notes that:
  - (a) this year a survey called "Australia's Favourite Books" will be conducted to find Australia's favourite or most borrowed books;
  - (b) Tuesday 26 May 2015 will be National Library Technicians' Day to provide the opportunity for library technicians to promote their professions and their role in libraries and to celebrate their many achievements;
  - (c) the National Simultaneous Storytime, an annual campaign that aims to encourage more young Australians to read and enjoy books, will take place at 11.00 a.m. on Wednesday 27 May 2015, with thousands of children across the State gathering at public libraries for a special reading of the story *The Brothers Quibble*, an award-winning children's book by writer and illustrator Mr Aaron Blabey who has won the NSW Premier's Literature Award and the Patricia Wrightson Prize for Children's Literature;
  - (d) on Thursday 28 May 2015, libraries will celebrate the Cancer Council's Biggest Morning Tea to raise funds for vital research, prevention and support services for the one in two Australians who will be diagnosed with cancer before the age of 85; and
  - (e) on Friday 29 May 2015 it will be Australian Library and Information Association [ALIA] Day, "Together we are stronger", to recognise the role the ALIA has in the community.
- (3) That this House:
  - (a) expresses its support for libraries, librarians and all library professionals and the essential services they provide;
  - (b) acknowledges that public libraries provide benefits to communities across a broad range of government portfolios; and
  - (c) encourages everyone to participate in Library and Information Week activities in their local community.

### **BUSINESS OF THE HOUSE**

#### **Withdrawal of Business**

**Private Members' Business item No. 101 outside the Order of Precedence withdrawn by Reverend the Hon. Fred Nile.**

### **NATIONAL SORRY DAY AND NATIONAL RECONCILIATION WEEK**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) 26 May 2015 is National Sorry Day; and
  - (b) 27 May to 3 June 2015 is National Reconciliation Week.

- (2) That this House notes that:
- (a) National Sorry Day, also known as the National Day of Healing, has been held each year since 1998 on the anniversary of the tabling in the Australian Parliament of "Bringing Them Home: The Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families";
  - (b) Sorry Day commemorates the history and impacts of the Stolen Generations of Aboriginal and Torres Strait Islander children who were forcibly removed from their families and communities; and
  - (c) in addition to recommending an annual Sorry Day, the Bringing Them Home report recommended that reparation be made in recognition of the history of gross violations of human rights and that such reparation be made to all who suffered because of forcible removal policies.
- (3) That this House notes that:
- (a) National Reconciliation Week begins on the anniversary of the 1967 referendum and ends on the anniversary of the High Court's landmark Mabo decision; and
  - (b) the theme for National Reconciliation Week 2015 is "It's time to change it up", encouraging people to take fresh action in their community, workplace or school to promote change and reconciliation and to work to fix historical exclusion and end discrimination.
- (4) That this House:
- (a) expresses and reaffirms its commitment to the ongoing processes of reparation and reconciliation;
  - (b) commends the many Aboriginal and Torres Strait Islander people, organisations and communities who have contributed for many years and decades to ensuring that the shameful history and impacts of the Stolen Generations were acknowledged and are understood by all Australian people, and that there is an ongoing path towards healing the intergenerational trauma caused by the forcible removal of Aboriginal and Torres Strait Islander children; and
  - (c) congratulates Reconciliation Australia, the NSW Reconciliation Council and the many organisations and individuals contributing to National Sorry Day and National Reconciliation Week events.

### AUSTRALIAN INDIGENOUS EDUCATION FOUNDATION

#### **Motion by the Hon. GREG DONNELLY agreed to:**

- (1) That this House notes that:
- (a) the Australian Indigenous Education Foundation [AIEF] was established by Mr Andrew Penfold, AM, in 2007;
  - (b) AIEF is a private sector-led, non-profit organisation;
  - (c) AIEF provides scholarships which enable Indigenous students to attend some of Australia's leading schools and universities, as well as mentoring and career support to ensure students make a successful transition from school to further studies or employment;
  - (d) AIEF offers annually more than 500 scholarships for Indigenous students; and
  - (e) AIEF's major partnership sponsors include BHP Billiton, the Commonwealth Bank of Australia, Qantas, BP, HSBC, KPMG, the Australian Football League, the Australian Ireland Fund and the Cathy Freeman Foundation.
- (2) That this House notes that:
- (a) the "AIEF Compendium of best practice for achieving successful outcomes with Indigenous students in Australian boarding schools" was released on 20 May 2015;
  - (b) the purpose of the report is to share the expertise and knowledge of schools that have been working in the field of providing boarding scholarships for Indigenous students over the last 10 to 20 years;
  - (c) more than 50 schools participated in the development of the report; and
  - (d) it is a key objective of the report to assist new schools to come to understand what best practice looks like and recognise the most successful strategies that are being undertaken elsewhere so that they can replicate them and achieve better outcomes in a much shorter period of time.
- (3) That this House acknowledges and congratulates AIEF on the production of the report regarding Indigenous students in Australian boarding schools, in particular its author Ms Renee Coffey.
- (4) That this House expresses its support and encouragement to the following New South Wales schools that are currently running and developing boarding scholarship programs for Indigenous students: Cranbrook School, Farrer Memorial Agricultural High School, Kincoppal-Rose Bay School of the Sacred Heart, Knox Grammar School, Loreto, Normanhurst, Presbyterian Ladies' College, Sydney, Pymble Ladies' College, Saint Ignatius' College, Riverview, The Scots College, St Catherine's School, Waverley, St Gregory's College, Campbelltown, St Joseph's College, Hunters Hill, St Scholastica's College, St Vincent's College, Potts Point and The Armidale School.

**BUSINESS OF THE HOUSE****Formal Business Notices of Motions**

**Private Members' Business item No. 114 outside the Order of Precedence objected to as being taken as formal business.**

**CITY OF NEWCASTLE RSL ANZAC DAY CEREMONIES****Motion by Mr SCOT MACDONALD agreed to:**

- (1) That this House congratulates the City of Newcastle RSL Sub-branch President, Mr Ken Fayle, and the Anzac Day committee on the highly successful Anzac Day ceremonies conducted this year in Newcastle.
- (2) That this House notes that:
  - (a) a record 43,000 people attended the dawn service and approximately 14,000 joined the service at Civic Park later in the day; and
  - (b) as Newcastle is New South Wales' largest regional city, these attendance numbers are a credit to the Hunter community and the Returned Services League.

**BUSINESS OF THE HOUSE****Formal Business Notices of Motions**

**Private Members' Business items Nos 122, 124 and 131 outside the Order of Precedence objected to as being taken as formal business.**

**PUBLIC EDUCATION DAY****Motion by Dr JOHN KAYE agreed to:**

- (1) That this House notes that:
  - (a) Thursday 28 May 2015 is Public Education Day in New South Wales;
  - (b) Public Education Day is a time to celebrate the significant and many achievements of this State's public schools in educating students from all backgrounds regardless of their socio-economic status, race, religion, sexuality, gender identity, special needs, or levels of academic interest; and
  - (c) the second budget of the Federal Abbott Government, released this month, confirmed that public schools will not receive the urgent and necessary final two years of Federal funding outlined by the National Education Reform Agreement or the disability loading to provide additional support for students with special needs.
- (2) That this House congratulates all New South Wales public schools on their outstanding service to the community and wishes all students and teachers a very happy Public Education Day.
- (3) That this House condemns the Federal Abbott Government for failing to fulfil its pre-2013 election promise to deliver the full six years of Gonski funding to public schools, including the disability loading for students with special needs.
- (4) That this House welcomes New South Wales education Minister the Hon. Adrian Piccoli's commitment to funding the State Government's share of the full six years of the Gonski money for New South Wales public schools.
- (5) That this House calls on Mr Piccoli to take every action possible to urge his Federal Coalition colleagues to commit to funding the Commonwealth's share of public schools.

**PRIMARY SCHOOLS SPORTS ASSOCIATION****Dr JOHN KAYE [11.10 a.m.]: I move:**

- (1) That this House notes:
  - (a) that Centennial Parklands are raising fees on their sporting grounds to a rate that will make it unaffordable for public schools to use these facilities as they currently do, most notably for the region's weekly inter-school sports activities organised through the Primary Schools Sports Association [PSSA].
  - (b) that in 2014 the Centennial Parklands charged the Sydney Coastal Primary Schools Association Sports Association [SCPSSA] \$15,040 for one season of ground hire of Queens Park, Centennial Park and Moore Park fields and courts and that the total bill for the year was nearly \$23,000;

- (c) that, by comparison, by 2013 Centennial Parklands charged \$3,481 for all ground and carnival hire, and in 2001 the total cost for the hire of park grounds was just \$75;
  - (d) the Sydney Coastal PSSA organises weekly inter-school tournaments in Centennial, Queens and Moore parks between the region's 17 public schools; and
  - (e) if affordable fees are not restored for 2015, public school parents will have to bear the increased costs to be able to continue current arrangements for PSSA in the eastern suburbs.
- (2) That this House supports parents, schools and members of the community and the community action group "Save PSSA in Centennial Park" in their efforts to ensure affordable access for public schools for the use of sporting fields at Centennial Park.
- (3) That this House calls on the Hon. Adrian Piccoli, MP, Minister of Education and the Minister responsible for the parklands, the Hon. Mark Speakman, MP, Minister for the Environment, to commit to ensuring that the SCPSSA and public school students in the eastern suburbs of Sydney are guaranteed access to the Centennial Park playing fields now and into the future at a fair and affordable rate.

**Question put.**

**The House divided.**

**Ayes, 13**

Ms Barham	Mr Primrose	Mr Wong
Mr Buckingham	Mr Searle	
Ms Cotsis	Mr Secord	<i>Tellers,</i>
Dr Faruqi	Ms Sharpe	Mr Donnelly
Dr Kaye	Mr Shoebridge	Mr Moselmane

**Noes, 19**

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	
Mr Brown	Mr Khan	<i>Tellers,</i>
Mr Colless	Mr MacDonald	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

**Pairs**

Mrs Houssos	Mr Clarke
Mr Mookhey	Mrs Maclaren-Jones
Mr Veitch	Mr Mason-Cox
Ms Voltz	Mrs Taylor

**Question resolved in the negative.**

**Motion negatived.**

**HUMAN RIGHTS IN NORTH KOREA**

**Motion by Dr JOHN KAYE agreed to:**

- (1) That this House notes that the United Nations Human Rights Council Commission of Inquiry, chaired by retired High Court Judge, the Hon. Michael Kirby, AC, CMG, reported in January 2014 that the North Korean Government has committed systematic human right abuses at a scale without parallel in the contemporary world, including extermination, murder, enslavement, torture, imprisonment, rape, forced abortions, and other sexual violence.
- (2) That this House condemns:
- (a) the regime of North Korea and calls for democratic change to end the violence and repression; and
  - (b) those that minimise or make light of the extremely grave consequences for the North Korean people of the behaviour of the Kim Jong-Un dictatorship.



## PAWS AND RECOVER

**Motion by the Hon. Dr PETER PHELPS, on behalf of the Hon. MARK PEARSON, agreed to:**

- (1) That this House acknowledges and congratulates Senior Constable Jaqui Largo, Kings Cross Police Service, on her outstanding work in establishing and running Paws and Recover, a not-for-profit organisation that assists homeless people living on the streets to care for their companion animals that are often their one and only friend.
- (2) That this House notes that:
  - (a) Paws and Recover networks with police, ambulance, emergency and mental health services in cases where animals are abandoned or would be left behind after domestic violence intervention, emergency, accident, health and mental health problems; and
  - (b) during the week of 18 May 2015 Paws and Recover was able to arrange an animal carer for a 90-year-old woman living alone with her companion dog so that she was able to be admitted to hospital for an operation to remove cancer.
- (3) That this House acknowledges and congratulates the more than 70 volunteers, including police officers, who assist with this compassionate and very necessary service which contributes to the wellbeing of vulnerable members of the community and their "best mates".

## PETITIONS

### Public Libraries

Petition stating that libraries are a fundamental part of the educational and cultural vibrancy of community, providing lifelong learning and opportunities for social interaction, and calling on the Government to recognise the social and economic benefits provided to the community by public libraries and increase funding of public libraries to reinstate the previous percentage level of contribution, received from the **Hon. Jan Barham**.

## BUSINESS OF THE HOUSE

### Routine of Business

*[During the giving of notices of motions]*

**The PRESIDENT:** Order! The Hon. Lynda Voltz may be transgressing Standing Order 91 by making a reflection on a member. There are specific rules as to the form of motions. I will listen further to the member's notice of motion.

*Later,*

**The PRESIDENT:** Order! I remind the Hon. Shayne Mallard, who is a new member, that while giving a notice of motion it is disorderly for him to respond to interjections. Interjections are disorderly at all times.

## GENERAL PURPOSE STANDING COMMITTEE NO. 2

### Chair and Deputy Chair

**The PRESIDENT:** I inform the House that at a meeting held today the Hon. Greg Donnelly was elected to be the Chair and the Hon. Paul Green was elected to be the Deputy Chair of General Purpose Standing Committee No. 2.

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders: Order of Business

**The Hon. PAUL GREEN** [11.40 a.m.]: I move:

That standing and sessional orders be suspended to allow Private Members' Business item No. 108 outside the Order of Precedence, relating to a reference to General Purpose Standing Committee No. 6 concerning local government in New South Wales, to be called on forthwith.

Basically, what is really good about this is that all stakeholders in this House have agreed to this inquiry so establishing why the debate is urgent should not take too much time. Tomorrow the appointments of the Chair and Deputy Chair of General Purpose Standing Committee No. 6 will be announced and the committee will then be ready for business. It would be good if at that stage this referral was on the table and ready to go.

**The Hon. DUNCAN GAY** (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [11.41 a.m.]: The Government supports the motion moved by the Hon. Paul Green to have the matter debated urgently.

**Mr DAVID SHOEBRIDGE** [11.41 a.m.]: The Greens strongly support the motion and are pleased that the Hon. Paul Green has brought the matter forward. It is desperately urgent to have this inquiry established. We know that the Independent Pricing and Regulatory Tribunal [IPART] is a going through the process of setting the criteria and that will be completed by the end of this month. Within one month from that, IPART will be demanding that councils put in their so-called applications for fitness. Local government authorities around the State are rebelling against the Government's Fit for the Future forced amalgamations agenda. This motion is essential to hold the Government to account, to give local government and local communities a voice, and to stand up to the forced amalgamation agenda of the Baird Government. The Greens strongly support this motion. It is timely and essential.

**The Hon. ROBERT BROWN** [11.42 a.m.]: On behalf of the Shooters and Fishers Party, I also express support for the motion. It is timely. The Hon. Paul Green is correct in stating it is a matter of urgency. These matters are in train at the moment. As the first terms of reference for General Purpose Standing Committee No. 6, I could not conceive of better terms of reference. The Shooters and Fishers Party supports the motion to have the matter dealt with urgently.

**The Hon. PETER PRIMROSE** [11.42 a.m.]: On behalf of the Opposition, I indicate, as we are dealing simply with urgency at the moment, that the Opposition also supports the motion.

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

**Motion agreed to.**

## **GENERAL PURPOSE STANDING COMMITTEE NO. 6**

### **Reference: Local Government in New South Wales**

**The Hon. PAUL GREEN** [11.43 a.m.]: I move:

- (1) That General Purpose Standing Committee No. 6 inquire into and report on local government in New South Wales and in particular:
  - (a) the New South Wales Government's "Fit for the Future" reform agenda;
  - (b) the financial sustainability of the local government sector in New South Wales, including the measures used to benchmark local government as against the measures used to benchmark State and Federal Government in Australia;
  - (c) the performance criteria and associated benchmark values used to assess local authorities in New South Wales;
  - (d) the scale of local councils in New South Wales;
  - (e) the IPART role in reviewing the future of local government in New South Wales, assisted by a South Australian commercial consultant;
  - (f) the appropriateness of the deadline for "Fit for the Future" proposals;
  - (g) costs and benefits of amalgamations for local residents and businesses;
  - (h) evidence of the impact of forced mergers on council rates drawing from the recent Queensland experience and other forced amalgamation episodes;
  - (i) evidence of the impact of forced mergers on local infrastructure investment and maintenance;
  - (j) evidence of the impact of forced mergers on municipal employment, including aggregate redundancy costs;
  - (k) the known and or likely costs and benefits of amalgamations for local communities;

- (l) the role of co-operative models for local government including the "Fit for the Future" own Joint Organisations, Strategic Alliances, Regional Organisations of Councils, and other shared service models, such as the Common Service Model;
  - (m) how forced amalgamation will affect the specific needs of regional and rural councils and communities, especially in terms of its impact on local economies;
  - (n) protecting and delivering democratic structures for local government that ensure it remains close to the people it serves;
  - (o) the impact of the "Fit for the Future" benchmarks and the subsequent Independent Pricing and Regulatory Tribunal performance criteria on councils' current and future rate increases or levels; and
  - (p) any other related matter.
- (2) That with the agreement of the committee participating members' travel costs be covered by the committee.
  - (3) That the committee report by Monday 17 August 2015, unless the committee resolves to table at a later date.

I do not wish to detain the House from consideration of other business. However, there are real concerns relating to amalgamations, further cost shifting, local government being unable to loudly voice its opposition to some of the proposed reforms and local communities not having a voice so it is important to bring on the inquiry. I congratulate the Government on agreeing to the motion being dealt with as a matter of urgency and for coming on board in relation to the inquiry. At the end of the day the Government has a single goal, which is to deliver strong local government and strong communities. Every member of this House agrees with that, but how that is achieved needs to be the subject of a conversation and engagement. We do not want to revert to the bad old days of adopting the attitude that one size fits all. One size does not fit all. There are 152 local government areas in the State that need to have a voice, time to voice their concerns about the transition and time to play a part. I thank the Government for its attentiveness on this issue and I thank all members of the House for their contribution to the terms of reference for this inquiry, which are intended to reach out to all stakeholders.

**The Hon. DUNCAN GAY** (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [11.46 a.m.]: As I indicated earlier, the Government supports the motion. To address the imbalance in remarks made by The Greens, it is important to say that in September last year the New South Wales Government announced a record \$1 billion investment to support councils to become fit for the future and, ultimately, to provide the services, infrastructure and value for money from councils that communities want and desire. Not in any State in this country has there ever been such a huge investment in the local government sector. Fit for the Future did not happen in isolation. It is not a bolt from the blue. It follows almost four years of consultation and analysis, most notably through the work of the Independent Local Government Review Panel, which is chaired by Professor Graham Sansom, a former head of the Australian Centre for Excellence in Local Government and for a number of years one of the leading thinkers about local government in Australia.

This groundbreaking examination of local government in New South Wales found that the system, structures and processes of local government need fundamental change. We cannot put our heads in the sand about that. Based on significance and extensive consultation across the length and breadth of New South Wales, the panel recommended a raft of changes that are aimed to significantly reshape local government to make it, in the terms of the panel, "fit for purpose" and to help to drive New South Wales into the twenty-first century. Much of the commentary, arising from the panel and Fit for the Future, is about the lack of a need for change or the lack of evidence for change. It would be a shame if that type of commentary gained the ascendancy.

*[Interruption]*

We have just heard from the leader of the flat earth policy. Such an analysis is incorrect and false. Change is necessary and vital. The resistance to change also misses the opportunity that change in local government provides. Over the past 3½ years of analysis and reviews undertaken with the sector, we know that positive and active change is needed now to ensure that councils will be fit for the future. This is not simply about ensuring financial sustainability and value for money, although clearly those should be a priority, given the dire state of many councils and their finances; the changes are about creating a system of local government that is able to meet the long-term needs of local communities and the State. It is about councils having the scale and capacity to provide quality services and infrastructure, and deliver the housing, jobs and transport that people need.

Change provides the opportunity to support communities to grow and to reach their full potential, provide communities with the infrastructure and services they demand, and ensure that councils provide the best

value possible to ratepayers and to the broader community. The time for talking is over. Through Fit for the Future the Government is providing councils with the support and funding to make the necessary changes. In great measure, it is up to local councils to grasp that opportunity for positive change and to work towards achieving it. The Government supports the motion.

**The Hon. PETER PRIMROSE** [11.49 a.m.]: My comments in support of the motion will be brief. As the House will be aware, yesterday the Opposition proposed the establishment of a select committee and that the Hon. Paul Green, given his background as a mayor and as someone who has a balanced view on these issues, would be the best person to chair that committee. Because of the degree of community concern expressed by councils and others, a number of other members, including the Hon. Paul Green, proposed holding another inquiry with very similar terms of reference. We will achieve exactly the same thing—an inquiry into the process, the community having an opportunity to express its concerns, and a chair who understands the issues.

We are happy to support this proposal. I am also concerned that even though the Government is supporting this matter the Minister just said that the time for talk or consultation is over. I know that this is not part of the Minister's portfolio responsibility but the time for consultation is now; it is taking place. If we listened to what the Government has suggested we could be forgiven for believing that local government and local communities were fully aware of what this process involves and that the Independent Pricing and Regulatory Tribunal [IPART] has a reasonable proposal.

**The Hon. Duncan Gay:** They are.

**The Hon. PETER PRIMROSE:** The Minister just said that they are. The concern, Minister, is that they are not. For instance—

**The Hon. Duncan Gay:** They are aware; they just do not agree.

**The Hon. PETER PRIMROSE:** I look forward to the Minister coming to the inquiry and telling us what will be the scale of councils. If we are talking about scale and capacity the Minister should be telling us what scale the Government proposes. IPART does not know, but it is consulting. Councils are expected to put in their submissions by 30 June but IPART has not yet indicated what scale it believes is appropriate for councils. The time for talk is now as councils are concerned. We do not know the Government's position.

**Mr David Shoebridge:** Yes we do. It is councils of a quarter of a million.

**The Hon. PETER PRIMROSE:** We do not know because the Government will not say and IPART is still investigating. Without prejudging the issue I am hopeful that this inquiry will ensure that those questions and others are asked. I give as an example of our concerns the idea that strategic capacity will influence the assessment of scale and capacity. The significant majority of empirical literature, both internationally and in Australia, casts considerable doubt on whether larger councils, per se, have a greater strategic capacity than smaller councils. On that basis neither adoption of a minimum population threshold nor a target number of councils in a particular region is likely to have a material influence on performance against the elements of strategic capacity suggested by the Independent Local Government Review Panel.

That same panel's assessment did not present an evidence-based case to support its contentions about scale. The difficulty understanding that panel's proposals is exacerbated by the Government's response to the findings. Let me take one council as an example. Lake Macquarie has a population of over 200,000 and is in a positive financial position but, according to the report, it does not have an adequate scale, whereas Cessnock, its neighbour, which has a population of 55,000, has an adequate scale. There is real concern about the application of this whole process.

The other thing that the Minister mentioned was the amount of funds that would be available. Recently, IPART approved a number of rate variations. The Minister said that this justifies the forced amalgamations of councils, but at no point have we considered all the other issues associated with council finances. For example, in its budget last year the Federal Government froze the financial assistance grants that were available to local governments. Those grants, which were made available by the Whitlam Government in 1975, have provided \$41 billion for councils. They assist councils to maintain local roads, deliver community services and invest in facilities like parks and libraries. But the indexation of those grants was frozen last year—the grants were frozen in the second Abbott budget.

This reduced funding is the type of issue that is causing local governments much grief. It is the type of issue that I hope this inquiry will examine and about which it will give details. I make it quite clear that the Opposition—and I do not oppose the amalgamation of councils; our election policy is clear—opposes the forced amalgamation of councils as we believe it should be voluntary. It should be done on the basis of a good and sound business case and it should be done in full consultation with the local community.

I believe that this process could work properly and efficiently. I am sure that not one member of this House and not one member of local government would not support a good, efficient, effective and viable local government sector. However, we need an open and transparent evidence-based process and we need the support of the community. I commend the Hon. Paul Green for moving this motion and I look forward to working with all members to achieve an efficient and viable local government sector in New South Wales.

**Mr DAVID SHOEBRIDGE** [11.55 a.m.]: While we are having this debate, the Independent Pricing and Regulatory Tribunal [IPART] is assessing its methodology. Submissions were required to be given to IPART by local councils in a matter of a few weeks which is grossly disrespectful of the usual procedure for councils to put matters on the business paper and to consult with their residents. I do not blame IPART for that because the Government of the day imposed a grossly inappropriate timetable that resulted in a short period of consultation with local councils. As a result of that timetable IPART was directed to obtain submissions on this substantive issue of amalgamations by 30 June. IPART was directed to comply with the Government's timetable even though it knew that local councils would not be able to consult properly with their residents, put out reports and speak to all residents.

Part of the Government's plan is to put a muzzle on local communities, to avoid referendums at the local council level and to try to force amalgamations through financial threats to councils if they do not amalgamate; potentially, through direct intervention from the Minister responsible for local government; or, if it thinks it can get it, from the majority of members in the Parliament implementing new laws to force amalgamations.

The myth that has been peddled by this Government and by its friends in the developer and big-business part of this State is that local governments in Sydney and in New South Wales are too small. That myth was exposed this morning in the *Sydney Morning Herald*, which made it clear that the average size of metropolitan councils in the OECD—our global competitors in the developed world—is a little more than 27,000. In countries such as France, the United States, Italy and Spain local councils are substantially smaller on average than they are in New South Wales.

Let me give some examples federally where there are three levels of government. We have a division between the Commonwealth, the States and local governments. The comparison should be with places such as Germany and the United States. On average, Germany and the United States have substantially smaller local councils than we have in New South Wales. In fact, when we compare Sydney with the OECD average of 27,400 residents—our global competitors—we find that the average number of residents in Sydney councils is a little more than 104,000, almost four times the average of our global competitors in the OECD.

The rest of the world is not wrong or out of step; the rest of the world understands that if local government is to be meaningful and have a connection with local residents it must be genuinely local. But this Government, no doubt fired up by its chats with the Property Council of Australia, the Urban Development Institute of Australia and false seers such as Chris Johnson, wants to supersize our local councils. The average council size of 104,000 is not good enough for this Government; there is too much connection with residents. This Government is pushing the Sansom agenda which will result in local councils in Sydney having more than a quarter of a million residents. That is not a local council; that is a small State. We know what will happen when local councils have a quarter of a million residents.

**The Hon. Robert Brown:** It will be like the Australian Capital Territory.

**Mr DAVID SHOEBRIDGE:** It will be no different to the Australian Capital Territory. We know what will happen: the connection with local communities will be lost. The ability for a neighbourhood to have a genuine influence on the decisions that are made about planning rules will be gutted. That is the plan of this Government. It has had developers come and say, "Look, it is terrible, we have all these local councillors, sitting there, elected by their local residents. Then we have an inappropriately large and out-of-scale development being proposed and the councillors keep listening to what the residents have to say and they keep hearing from the residents that they do not want their suburbs demolished, bulldozed, turned into an endless

Property Council dystopia of apartment blocks." The Property Council then says, "We have to do something about that." But they need not worry—they have got ready reception from the Government. It says, "We have a plan for you guys."

**The Hon. Duncan Gay:** Point of order: As reluctant as I am to take a point of order—because Mr David Shoebridge has been so gentle and nice about so many people—I must raise the fact that, if he is going to continue to attack particular areas, particularly the Property Council, he should do so by way of substantive motion.

**The PRESIDENT:** Order! There is no point of order. However, Mr David Shoebridge was starting to stray from the substantive issue of whether a committee should be established. I ask him to return to the substance of the motion.

I welcome to the House student leaders from high schools in New South Wales who are attending the Secondary Schools Leadership program conducted by the Parliamentary Education Unit. Welcome to the Legislative Council today. I hope your visit to Parliament House is worthwhile. I also welcome a group of students from Bowraville Public School. You are very welcome. I hope you enjoy your visit.

**Mr DAVID SHOEBRIDGE:** Local government works best when it has close connections with local residents. However, if local government areas have a quarter of a million residents, that connection will be fundamentally broken. Instead of people having connections with their local parents and citizens association or local sporting club, or with residents campaigning to save their local park—the kinds of connections that give them the community support to get elected onto local council—local government will become just another tier of professional politicians. The situation will arise where the only way people can get elected is to do what the Liberals did in the local council elections. Candidates will have to get into bed with the Property Council and the property developers and fill letterboxes with those cashed-up, multi-thousand-dollar glossy brochures. Local government will be turned into just another professionalised level of politics that loses its local identity.

This motion, moved by a former mayor, is an essential step in putting to proof the false allegations that bigger is better or that bigger makes more efficient. People are not fools. They know from experience over time that the bigger the bureaucracy, the bigger the company, the bigger the entity they are dealing with, the less say they have and the less democracy they will get. The Government's agenda is about diluting local democracy. This inquiry is a chance to put them to proof and to put residents and communities ahead of the interests of the developers.

**The Hon. ROBERT BROWN** [12.03 p.m.]: On behalf of the Shooters and Fishers Party, I support the motion. It is interesting to hear the arguments that have been put forward today by the Government, the proponents of the motion and the Opposition. We can see that the Fit for the Future process has been engineered to give an outcome. We agree that there is indecent haste in this process. I heard the interjections of the Leader of the Government in relation to some of the comments about rushing things. Councils are aware of their situation in relation to the Fit for the Future guidelines and the hurdles that are being set.

However, I have seen numerous examples where these guidelines—particularly the financial guidelines proposed by Treasury and adopted as part of Fit for the Future—are just rubbish. There is no better word for it. Some councils are manipulating the valuations of their assets registers to adjust their depreciation schedules so that they meet the Fit for the Future guidelines. Some small councils do not meet the guidelines because their debt ratios are non-existent—they have no debt. Murray Shire Council is one example.

Council after council—or their representatives—have told me that they want to be given time to assess whether their residents see value in these amalgamations. "Forced amalgamations" is a moot term. One can force amalgamations by legislation, but the Government clearly does not have the spine to do that, so it is done by other means. It is done by putting financial strictures on councils that they may not be able to meet. This debate has been brought on as a matter of urgency and the Shooters and Fishers Party supports that urgency. We support the motion and congratulate the Hon. Paul Green on moving it. He is one of six former mayors in this place.

**The Hon. Peter Primrose:** We have formed a caucus.

**The Hon. ROBERT BROWN:** That is not a bad idea—a former mayors caucus. We could really make things roll. The Shooters and Fishers Party will not stand by and let local councils—particularly rural councils—be stampeded into something that is not good for the residents of those councils. We support the motion.

**Ms JAN BARHAM** [12.07 p.m.]: I speak on the motion as a former mayor of a rural council. I state my concerns about the Fit for the Future process, but I also support and recognise the importance of this inquiry. I am pleased to hear that the council of which I was a member for 13 years—Byron Shire Council—fits with the average size set by the Organisation for Economic Cooperation and Development [OECD]. However a factor that is never properly understood is that Byron Shire Council is of an average size of 27,000 to 30,000 but has 1.5 million visitors a year.

I refer to the point raised about the financial foundation that Fit for the Future is built on. What concerns me is that we are seeing from this Government—as we saw from the previous Government—a lack of creative and considered understanding about the real values of local government and the things that local government provides, other than the pure economic. I am reading *Six Capitals*, an interesting book about the quiet revolution that is happening around the country and the expectation that we begin to value what happens at a community level where one has values other than the economic, the manufacturing or the financial. We need to integrate the real values that mean something to local communities—the cultural, the natural and the social—that is, the human values. They are reported in international reporting standards but are not yet acknowledged in Australia. I would expect a Government that professes to be progressive and to practise economic rationalism to look at the real values of communities and local government.

Instead the Government is putting forward yet another program that is forcing councils—as the Hon. Robert Brown said—to manipulate their asset registers and to sell off important assets that are needed for the future. We have an outmoded system being put forward by a Government that does not understand the real value of local government and the importance of sustainability and maintaining its future identity. I am confident that this inquiry will reveal the importance and the value of local government.

**The Hon. PAUL GREEN** [12.10 p.m.], in reply: I thank all members for their kind words and encouragement when speaking to the motion to establish a local government inquiry. I must reply to a couple of the comments made by the Minister for Roads, Maritime and Freight. We cannot put our head in the sand when it comes to local government. I have no problem with the terms of the reform agenda, which basically says we will look at it and see how the 152 councils across New South Wales are faring. For the benefit of those in the gallery, the best council in New South Wales is Shoalhaven. There is no bias in that comment whatsoever! Shoalhaven is the highest overnight destination outside Sydney so it obviously has something going for it other than its 109 beaches.

I congratulate the Government. Recently members of this House paid tribute to the Hon. Don Page, the former Minister for Local Government, because he instigated dialogue. One of local government's best achievements was meeting at Dubbo to talk about the way forward. There were different opinions about the way local government should work. I am greatly concerned when I hear comments that the time for talking is over. It brings to mind the way business used to be. I did not think that this Government would use that dialogue. The time for talking should never be over. It must be an ongoing process to ensure local governments are working together, encouraging the best results.

Clearly some councils are financially unsustainable and some have a backlog of infrastructure that will never be serviced. Some councils must be held accountable for not supporting their communities. Those issues must be dealt with, but there are appropriate forums in which to air those issues. This inquiry provides an opportunity to encourage dialogue. The time for talking is not over; it has just begun. If there is to be reform, there must be ownership across the board for it to be successful. I appreciate the opportunity to lead the inquiry and I appreciate the Minister allowing me to bring the matter to the attention of the House. If this Government wishes to ensure that local governments are prospering, we must not conform to the old adage that one size fits all. Sometimes things are better when they are bigger, but sometimes good things come in small packages. This Government is committed to this process to ensure local governments receive a fair go. I commend this motion to the House.

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

**Motion agreed to.**

**PUBLIC HEALTH (TOBACCO) AMENDMENT (E-CIGARETTES) BILL 2015****Second Reading**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [12.13 p.m.]: I move:

That this bill be now read a second time.

The Public Health (Tobacco) Amendment (E-Cigarettes) Bill 2015 proposes to amend the Public Health (Tobacco) Act to prohibit the sale of e-cigarettes and e-cigarette accessories to minors. The popularity and use of e-cigarettes is growing rapidly across the world. Regulators everywhere are faced with the challenge of responding in a way that is balanced and proportionate to the potential risk and benefit of these products. There is no conclusive evidence to say whether e-cigarettes help people to quit smoking. There is still a lot we do not know about e-cigarettes. What we do know, and what we can all agree upon, is that these are not products for minors.

The Government is acting to protect children and young people from the potential risk that e-cigarettes pose by ensuring that they cannot be purchased by minors. The New South Wales Government has made great strides in reducing smoking rates and preventing the uptake of smoking by young people. In 2012 the smoking rate among secondary school students was at an all-time low of 7.5 per cent. This is an impressive achievement, which demonstrates the effectiveness of our tobacco control efforts in New South Wales. We need to protect these gains at all costs.

What we are seeing in the United States and some other countries across the world is a sharp rise in the use of e-cigarettes by children and young people. E-cigarette use tripled among middle and high school students in the United States between 2013 and 2014. Among high school students alone, the current use rose from 4.5 per cent to 13.4 per cent in one year. Two million high school students reported current e-cigarette use in 2014. This figure is of great concern and is a warning to countries such as Australia where e-cigarette use is still low.

I am aware of concerns among some members of the public health community that e-cigarettes may act as a gateway to nicotine addiction and tobacco smoking. The sale of liquid nicotine is banned in New South Wales, unless there is an approval from the Ministry of Health, or the product is otherwise lawful under the Commonwealth Goods Act. However, e-cigarettes can sometimes contain nicotine without it being declared on the label. This is not only illegal, but may potentially cause harm. I am also aware of concerns that e-cigarettes will re-normalise tobacco smoking, given the similarities that often exist between the two products. While evidence is not conclusive in regard to these concerns, I am sure that we all agree it is vital that the Government and the community continue to work to reduce the number of people who smoke and to stop children and young people from becoming addicted to nicotine and smoking.

We must move promptly to protect our young citizens. To that end, the Public Health (Tobacco) Amendment (E-Cigarettes) Bill 2015 has been developed. The bill amends the Public Health (Tobacco) Act to make it an offence to sell an e-cigarette or e-cigarette accessory, including via a vending machine, to a person under the age of 18 years. The offence will carry the same maximum penalty as the sale of a tobacco product to a minor—that is, \$11,000 for an individual or \$55,000 for a corporation, and for repeat offenders \$55,000 for an individual and \$110,000 for a corporation. It will also be an offence for an adult to purchase e-cigarettes on behalf of a minor. This will have the same maximum penalty that applies to adults purchasing tobacco products on behalf of a minor, which is \$2, 200.

In addition, the bill makes amendments to division 3 of part 2 of the Public Health (Tobacco) Act to apply the current provisions in relation to tobacco vending machines to e-cigarette vending machines, which will limit children's access to e-cigarettes. This means that e-cigarette vending machines, as with tobacco vending machines, can be located only in licensed premises or gaming areas and that the vending machine can be operated only by a staff member or by obtaining a token from staff members. While the Ministry of Health is not aware of any e-cigarette vending machines in operation in New South Wales, these amendments are important to ensure that if such vending machines become a part of our society they are not located in areas that children generally access.

The bill includes a broad definition of "e-cigarettes" and "e-cigarette accessories" so as to capture any device that releases or generates an aerosol or vapour by electronic means for inhalation in a manner similar to



the inhalation of smoke from a tobacco product. However, the ban will not apply to legitimate stop-smoking aids that meet the definition of "e-cigarettes" provided that these are registered under the Therapeutic Goods Act or where there is approval under the provision of the Act. The definition of "e-cigarettes" under the bill includes devices and liquids that contain nicotine as well as those that do not contain nicotine.

The Government acknowledges that there are legitimate concerns that e-cigarettes could cause harm, particularly to children and young people. The NSW Ministry of Health is monitoring, and will continue to monitor, the evidence about the harms and benefits of e-cigarettes. The Government will, if appropriate, bring further legislation to regulate the use and sale of e-cigarettes. However, it is imperative that we act now to ban sales to minors to prevent children and young people from buying and using e-cigarettes, which could undermine decades of anti-smoking efforts in New South Wales. I commend the bill to the House.

**The Hon. WALT SECORD** (Deputy Leader of the Opposition) [12.20 p.m.]: As the Deputy Leader of the Opposition in this House and shadow Minister for Health, I lead for the Opposition on the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. The object of the bill is to amend the Public Health (Tobacco) Act 2008 to prohibit the sale of e-cigarettes and e-cigarette accessories to persons who are under the age of 18 years, and for related purposes. In Australia it is unlawful to sell e-cigarettes containing nicotine, but e-cigarettes are becoming very popular in New South Wales. Indeed, the sale and possession of liquid nicotine is illegal under the New South Wales poisons legislation, Poisons and Therapeutic Goods Regulation 2008, without the approval of NSW Health.

Under the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 it will be an offence to sell an e-cigarette to a minor, with a maximum penalty of \$11,000 for an individual or \$55,000 for a corporation, and for repeat offenders \$55,000 for an individual and \$110,000 for a corporation. Whilst this bill is a first step, it does not go far enough. Yesterday, in response to community concern, the NSW Ministry of Health made some minor amendments to the legislation, including banning adults from buying e-cigarettes for minors; allowing police to seize e-cigarettes from minors; and restricting e-cigarette vending machines to places where minors are not allowed such as licenced premises or gaming areas. Whilst I welcome these minor amendments, the Government should have gone much further; it missed a real opportunity to properly regulate e-cigarettes in New South Wales.

In New South Wales e-cigarettes should be subject to the same strict rules and regulations as tobacco. The Baird Government should have adopted all of the amendments proposed by Labor and The Greens; it would have given the bill genuine teeth. The community wants e-cigarettes to be appropriately regulated. In its current form the bill does not truly respond to juvenile smoking. E-cigarettes should be regulated, not in a half-hearted manner which gives in to "big tobacco" but in a manner provided for in detailed legislation which saves lives and protects children from the harms of nicotine addiction. I foreshadow that I will move a motion for an instruction to the Committee of the Whole for consideration of Labor's amendments, which I have circulated. I have been advised that those amendments, although complex, will allow a way forward to toughen the legislation on e-cigarettes and put some of the controls applying to tobacco in place.

Further, I have been advised by prominent independent third party sector groups which advocate tough anti-smoking laws that the Liberal-Nationals Government is making elaborate excuses to avoid considering those amendments. The Government claims that the amendments are outside the remit of the bill, but from the advice I have sought I believe we can overcome this issue. In moving that motion I will not be breaking new ground—there have been precedents in this Chamber—and, despite claims by the Government, an instruction to the Committee of the Whole does happen in this Chamber from time to time. For example, I refer to the Local Government Amendment Bill 2011. On 28 March 2012, slightly more than three years ago, Mr David Shoebridge, on behalf of The Greens, utilised such an instruction because the Local Government Amendment Bill went far beyond the original long title of the bill. Mr David Shoebridge moved a motion to consider an amendment relating to the number of councillors a council must have in each ward, if the area of a council is divided into wards.

In the foreshadowed amendments that Labor will be moving there is scope to widen the remit of this bill to properly regulate e-cigarettes in New South Wales. Those amendments will bring New South Wales law on e-cigarettes into line with the current Queensland law on e-cigarettes. In short, Labor wants e-cigarettes to be treated the same as tobacco—that is, their display, sale and use in New South Wales, as well as their use in public places. It would be disappointing if the Baird Government were to continue its minimalist and weak approach to e-cigarettes. Sadly, this Government is out of step with the community. Indeed, the length of the second reading speech of the Minister for Health on 6 May in the other place is indicative of the Government's commitment to this issue—it was one of the shortest second reading speeches I have ever witnessed.

E-cigarettes are battery-powered vaporisers through which liquid, usually containing nicotine, is heated, vaporised and inhaled—they also come in non-nicotine varieties. E-cigarettes are designed to mimic the act of smoking tobacco cigarettes without burning tobacco. They were invented in China in 2003 and their use in Australia is growing. In North America and Europe the use of e-cigarettes is widespread. They appear in popular, contemporary European and American films and are now commonplace. Unsurprisingly, the World Health Organisation has called for the regulation of e-cigarettes for public health reasons. I note that they are banned on some international flights.

As the Minister for Health said in her second reading speech, there is a lot we still do not know about e-cigarettes and there are differing views about their use. However, a couple of things are clear. First, e-cigarettes can be a nicotine delivery device. They may also create an alternate delivery system to smoking tobacco but the user intent is the same—namely, the delivery of nicotine to the blood system to achieve a pharmacological effect. It is well-known that this pharmacological effect is both damaging and highly addictive. Secondly, e-cigarettes serve a marketing purpose—namely, to normalise the act of smoking or, rather, to re-normalise the act of smoking.

After years of public health campaigns and legislation that have, quite rightly, made lighting up tobacco products less and less socially acceptable in Australia, e-cigarettes are designed to bring smoking back to what we call "polite society". My concern is not that e-cigarettes are "smoke free"—and some believe that is an improvement—but that they are still a nicotine pathway, and a pathway to addiction. E-cigarettes should be regulated like their traditional counterparts, and the Heart Foundation and Cancer Council hold similar views. Making smoking attractive again, especially to young people, will increase the chance of people taking up the habit. One would be naïve, to the point of foolishness, not to see the gateway designed into the e-cigarette market with non-nicotine liquids available in flavours such as chocolate, vanilla, pina colada, watermelon, banana pudding, sour cherry, apple and, of course, tobacco flavour.

I acknowledge that e-cigarettes raise two schools of thought: some researchers contend that e-cigarettes move existing smokers away from the habit; others contend that they are a gateway to cigarettes. Earlier this year the *New England Journal of Medicine* described e-cigarettes as a potential "gateway drug" to smoking. In 2015 the sale of e-cigarettes worldwide is expected to top \$5 billion. Recently I purchased two e-cigarettes, to assist with a media inquiry about them, from a local service station in the inner west. Without prompting, the person behind the counter said to me, "The kids love the watermelon flavour" and suggested that I should try the particular brand. I challenged him and said, "I hope you are not selling them to children." He quickly explained that by "kids" he meant people in their 20s—members can draw their own conclusions as to where the truth lies on that. I have been advised that some tobacco retailers, particularly on the North Shore, are selling nicotine fluid in a completely separate location from the e-cigarette devices in an attempt to circumvent the law.

Earlier this month the Cancer Council released a comprehensive audit of 1,519 retailers of e-cigarettes in New South Wales. The audit revealed that four out of five shops placed e-cigarettes near counters displaying lollies and chocolates—an area used by marketers to target children. Scott Walsberger, Tobacco Control Unit Manager, Cancer Council NSW, said he was worried that the use of confectionary and fruit flavours was an attempt to lure young people to smoke. Testing undertaken by NSW Health in 2013 revealed that 70 per cent of e-cigarette liquids sampled were found to have contained nicotine.

As an aside, I observe that this shows that the State Government is not doing enough to enforce the current nicotine ban. Of course, both schools of thought on e-cigarettes can coexist. For an established smoker, a transition to e-cigarettes is the lesser of two health evils. I know there is a group that wants the Therapeutic Goods Administration to regulate e-cigarettes at the national level as a way of getting smokers off regular cigarettes. But for a non-smoker there should be no support from governments; it would be yet another path to smoking and nicotine addiction in the marketplace. This is the conundrum that New South Wales needs to address. That is why I do not advocate a wholesale ban on e-cigarettes.

I note that the Pharmacy Guild of Australia, in the May edition of its guild bulletin, said it was opposed to having e-cigarettes, whether they contain nicotine or not, for sale in a pharmacy setting. I believe that if e-cigarettes meet the definition of a legitimate stop-smoking aid, such as those registered as therapeutic goods or approved under the Poisons and Therapeutic Goods Act, then they should be able to be marketed expressly for that purpose. Cancer Council NSW advises that 82 per cent of current smokers have tried to quit at least once.

Among smokers who have attempted to quit and been unsuccessful, the average duration of their attempt to quit is five weeks. As things stand, Labor believes that the approach taken by the Baird Government

to e-cigarettes in New South Wales is inadequate. The bill does not go far enough to protect our community. On 6 May 2015 the Minister for Health, in her second reading speech to the Public Health (Tobacco) Amendment E-Cigarettes Bill 2015, said at the beginning of her remarks:

Regulators everywhere are faced with the challenge of responding in a way that is balanced and proportionate to the potential risks and possible benefits of those products.

Using the Minister's own words as the test for appropriate legislative response to e-cigarettes, she has failed. The Baird Government's proposal is very simple and very limited. It is proposing only a restriction on sale to minors, that is, customers under 18. Of course I welcome this as the absolute minimum response to e-cigarettes. I also welcome the definition of "devices and liquids" to include ones that do not contain nicotine. But, given what we know about nicotine addiction, the community expects a better response. The community expects that e-cigarettes will be responded to for what they are: a nicotine delivery system or a means to normalise smoking. As such, they should be regulated just like cigarettes.

Labor believes that this is a limp legislative response by the Liberal-Nationals Government. The Government should have gone further and Labor proposes amendments accordingly. Labor's plan on e-cigarettes is similar to the position it announced during the State election campaign in late February, and for the reasons I will outline Labor hopes its plan will eventually be implemented. For clarity, I state that if Labor's amendments are defeated, Labor will be voting for the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. Labor will be taking a two-tiered approach to this legislation because it is mindful of the fact that the conservatives may have sufficient support in this Chamber to carry their will in regard to e-cigarettes. Labor would rather see some restrictions than none at all. The bottom line is that I want to see e-cigarettes removed from the hands of children. We have a chance to do much more and much better than what is proposed in this bill.

As I mentioned in Parliament recently, the Opposition and the crossbench members—whether from the Animal Justice Party, the Shooters and Fishers Party or the Christian Democratic Party—as members of the House of review have a duty to properly scrutinise, curtail or improve Government legislation. Cigarettes or e-cigarettes should be regulated for what they are: nicotine delivery systems. After all, this is how their manufacturers understand them. Last year the British American Tobacco's offshoot Nicoventures sought time with me to lobby on e-cigarettes immediately after my appointment as shadow health Minister. On Wednesday 20 May Imperial Tobacco sought a meeting with me after becoming concerned about my views on smoking. In both meetings I said that I thought the Baird Government had not gone far enough on tobacco regulation and that I would support any further and tougher measures on tobacco if they were proposed by the Minister for Health. Clearly, British American Tobacco sees e-cigarettes as a whole new market and a way to respond to the significant drop in cigarette sales in Australia.

**The Hon. Dr Peter Phelps:** You are a reformed smoker, aren't you?

**The Hon. WALT SECORD:** No, I am not.

**Mr Jeremy Buckingham:** You are not reformed?

**The Hon. WALT SECORD:** I am not a smoker. On 18 May 2015 Dr Simon Chapman, Professor of Public Health at the University of Sydney, said in his essay published in the *Medical Journal of Australia* and entitled "The future of electronic cigarette growth depends on youth uptake" that big tobacco is switching to e-cigarettes as a way to respond to the "record low uptake of smoking by the young". Dr Chapman also said, "All tobacco transnationals have invested in e-cigarettes," and that "successful e-cigarette start-up companies are being bought up by tobacco companies". Dr Chapman said most tobacco companies have invested in e-cigarettes, which led him to the conclusion that they were hoping people would smoke and use e-cigarettes. This is particularly concerning following the plain packaging restrictions implemented by the Gillard Labor Government and former Federal health Minister Nicola Roxon. For the record, I wholeheartedly endorse those measures.

As one door is closing, the tobacco giants are seeking to open a new window. Of course, we know that measures to curtail nicotine addiction have strong community support in New South Wales. The New South Wales community wants this door closed and it does not want any new window opened. I told Nicoventures that I believe New South Wales e-cigarette laws should be similar to those that apply to tobacco, in all regards. E-cigarettes should be subject to the same rules as those that apply to cigarettes for advertising, point of sale and

public use in New South Wales. At the moment, there is nothing to stop big tobacco companies from targeting children or selling e-cigarettes alongside mints and gum in convenience stores. People should not be allowed to use e-cigarettes on public transport or in other areas where tobacco use is restricted.

Currently there is nothing to stop me from using an e-cigarette in this Chamber—like the e-cigarette I hold in my hand right now—or in a hospital corridor, a childcare centre or a movie theatre. I hold an e-cigarette in my hand, and I know it would be irresponsible to spark it up here. But it would be lawful to use it in this Chamber under the current laws. My view is that any legislative response to e-cigarettes must include two key components—firstly, restrictions on the use of e-cigarettes, also known as vaping, in enclosed spaces similar to laws that currently apply to tobacco use in restaurants, hotels, public transport and other non-smoking areas; and, secondly, restrictions on the advertising, promotion and display of e-cigarettes at retail outlets similar to those that exist for tobacco products in New South Wales. These two restrictions simply seek to treat e-cigarettes in the same way as cigarettes, and why wouldn't we?

The Greens member Mr Jeremy Buckingham has an amendment on the use of e-cigarettes in cars in the presence of minors. I support this amendment. Furthermore, I note that the amendments Labor is advocating are almost identical to restrictions that now exist in Queensland. On 1 January 2015, the then-Newman Government restricted the sale, advertising and places of use of e-cigarettes. If one of the most conservative governments in recent memory could manage these public health protections then surely the Baird Government can too? Judging by its track record, perhaps not. After all, there appears to be a very reluctant commitment to this area by the Baird Government.

Furthermore, there has been little action in tackling Indigenous smoking rates and smoking rates amongst pregnant women in rural and regional New South Wales. In 2012 the rate of daily or occasional smoking in people aged 16 years and over was 32 per cent in New South Wales, with Aboriginal people 1.9 times more likely to smoke than non-Aboriginal people. In 2011 the percentage of women in New South Wales who reported smoking during pregnancy was 52 per cent for Aboriginal women and 10 per cent for non-Aboriginal women. Smoking during pregnancy, as we know, greatly increases the risk of adverse outcomes for both the mother and child.

I note comments by my colleagues in the Legislative Assembly, particularly concerns expressed by the member for Cabramatta, Mr Nick Lalich, and the member for Fairfield that more work needs to be done to combat smoking in the Asian and Arabic communities. The Baird Government's sluggish approach is further hindered by that of its colleagues in Canberra, the Abbott Government, who have taken \$3 million out of the National Tobacco Campaign—putting them once again on the wrong side of history.

Hundreds of millions of people around the world have died because of decades of lax regulation of the tobacco industry. That is why responsible governments everywhere have taken the fight to end smoking seriously. New South Wales should not be an exception. Smoking is the leading cause of preventable disease and death in this State, accounting for about 5,200 deaths and 44,000 hospitalisations a year. Nationally, about 40 people a day die from smoking-related illnesses. Unfortunately, we are still playing catch-up as people sadly die today in our hospitals from the harms of the tobacco industry—an industry that has shown remarkable innovation and obfuscation at every twist and turn in the public battle against smoking.

We have a unique opportunity today. We have an opportunity to do what our predecessors failed to do, that is, properly regulate a substance before it has the chance to proliferate in the same way as tobacco. We have an opportunity to save lives and protect our children from the dangers of a smoking life. We have made great leaps forward in lowering smoking rates across Australia; we have made great leaps forward in saving lives. In New South Wales smoking rates have dropped from 24 per cent to 15.8 per cent in 2010. Now nine out of 10 New South Wales adults live in a smoke-free home. But if we do not take the threat posed by e-cigarettes seriously we risk all of that good work being undone. Millions of lives and billions of health dollars are at stake. That is why I urge my colleagues in this Chamber to support Labor's comprehensive approach to e-cigarettes. I thank members for their consideration.

**The Hon. SARAH MITCHELL** [12.40 p.m.]: I support the measures outlined in the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 to ban the sale of e-cigarettes to minors. Smoking remains the leading cause of preventable disease and death in New South Wales, accounting for around 5,300 deaths and 46,000 hospitalisations a year. The social costs of tobacco use in New South Wales are high, with an estimated cost of \$8.4 billion annually. Even more staggeringly, one in every two smokers will die prematurely as a result of being a smoker.

Though the jury is still out on the health side effects of e-cigarettes there are already concerning signs of their impact. The World Health Organization has stated that existing evidence shows that the aerosol in the electronic nicotine delivery system is not merely "water vapour", as is often claimed in the marketing of those products. Similarly, according to a study commissioned by Public Health England—an operationally autonomous executive agency of the Department of Health in the United Kingdom—despite some manufacturers' claims that electronic cigarettes are harmless, there is also evidence that electronic cigarettes contain toxic substances, including small amounts of formaldehyde, which is carcinogenic to humans, and in some cases the vapour contains traces of toxic metals such as cadmium, nickel and lead.

Some advocates of e-cigarettes claim that they are a viable method in withdrawing from conventional smoking; however, the Therapeutic Goods Administration [TGA] has strongly cautioned against such an approach. It has stated that, unlike nicotine replacement therapy products, which have been rigorously assessed for efficacy and safety and therefore approved by the TGA for use as aids in withdrawal from smoking, no assessment of electronic cigarettes has been undertaken and therefore the quality and safety of electronic cigarettes is not known. Furthermore, the National Health and Medical Research Council [NHMRC] went so far as to recommend in a statement dated 25 March 2015:

... health authorities act to minimise harm until evidence of safety quality and efficacy can be produced. NHMRC is currently funding research into the safety and efficacy of e-cigarettes for smoking cessation.

I am concerned that e-cigarette marketers and manufacturers are clearly aiming their products as stylish, fashionable alternatives to traditional tobacco-based products. There are a multitude of starter kits available for purchase with vapour flavouring options. The Hon. Walt Secord mentioned some. In my research I found that other flavour options range from New York cheesecake, passionfruit or lime zinger to the more avant-garde selection of Death Valley nectar or Freudian slipper. These products are clearly aimed at the youth market. Whilst we have relatively limited evidence from a New South Wales perspective, there are anecdotal reports that our school students are buying and using e-cigarettes. There is also emerging evidence to suggest that young people who use e-cigarettes are more likely to use or intend to use tobacco cigarettes. That is quite frightening.

I believe something we can all agree upon in this House is that e-cigarettes should not be in the hands of minors. It is important to act now to protect children from the risks associated with the particulates and chemicals found in e-cigarettes. Accordingly, the bill has been prepared and will ban the sale of e-cigarettes to minors. Under the bill any person who sells e-cigarettes or e-cigarette accessories to a minor will be liable for fines of up to \$11,000 for an individual or \$55,000 for a corporation. For repeat offenders the maximum penalty will be \$55,000 for an individual and \$110,000 for a corporation.

It will be an offence for an adult to buy e-cigarettes, including via a vending machine, on behalf of a minor. Furthermore, police will be able to confiscate an e-cigarette in the possession of a minor in a public place. That is consistent with the powers of police in respect of minors in possession of a cigarette in a public place. The Government takes its responsibility to protect children and young people from the risks associated with e-cigarettes very seriously. As such, I am pleased to support the bill.

**Mr JEREMY BUCKINGHAM** [12.45 p.m.]: On behalf of The Greens I speak in debate on the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. It is an important bill and this is an important debate. As a house of review this House has an enormous opportunity to contribute to improving the proposed laws that the Minister brought forward in the other place. I commend Minister Jillian Skinner for acting on her promise to initiate reform in this area. We welcome that excellent action. I also acknowledge the Minister and her staff for working collaboratively on the bill with The Greens up to this point and for having an open mind about some of our amendments.

I note that in the other place the Government has adopted some suggestions of The Greens regarding offences relating to the purchasing of cigarettes for minors, including from vending machines, as well as our suggestion to allow police to confiscate e-cigarettes and vaping paraphernalia from minors. We welcome those provisions but join with the Hon. Walt Secord in saying that if the bill is not amended further it will be a missed opportunity. We have the opportunity to do so much more, and we should. Mr Assistant-President (Reverend the Hon. Fred Nile), I know that in your long career in politics you have consistently raised the issue of the harm that tobacco products cause to the community. The Greens and the broader community believe that e-cigarettes pose a massive threat to public health and the issue requires a comprehensive policy response.

I must acknowledge the efforts throughout Australia in the regulation of tobacco. We have been a world leader and a bipartisan approach has been taken up to this point. No-one thinks that smoking has been a

benefit to the community in toto. In fact, smoking has had horrific impacts in New South Wales and Australia and globally. As some have said, Australia has valuable silverware to protect when it comes to tobacco regulation. The impact of tobacco products is worth noting. The World Health Organization estimates that six million people die each year from tobacco use and 600,000 non-smokers die due to inhaling passive smoke. It is estimated that in the twentieth century 100 million people died due to smoking and that half of smokers are killed as a result of their smoking. Although we are all aware of those horrific numbers, they are worth reading onto the record.

Australia has made remarkable progress in cutting smoking rates and is a world leader in the field; we hold a gold medal in fighting tobacco. We have restrictions on advertising—which I know is dear to your heart, Mr Assistant-President—health warnings on packages, plain packaging, restrictions on marketing, educational programs, high excise and high prices, and all those regulations have had a dramatic impact and lowered the rate of smoking. All those regulations were fought against tooth and nail by big tobacco. I am new to the Health portfolio. Just this week I have been mentioning on social media the issue of e-cigarettes and vaping. I am sure that you, Mr Assistant-President, would have been following me on Twitter. The vociferousness, torrents of abuse and trolling that I have seen on social media have been remarkable.

**The Hon. Dr Peter Phelps:** They are from you.

**Mr JEREMY BUCKINGHAM:** Not from me, but from people purporting to be from the vape lobby and the EC lobby. They have been saying the most outrageous things. It is obvious that there is a concerted campaign to make the case that e-cigarettes and vaping are safe. I do not think that anyone can make that claim. E-cigarettes may do less harm than smoking tobacco—and I emphasise "may" because that has not been proved—but there is an enormous risk that we, as suggested by the Hon. Walt Secord, re-normalise in society the act of smoking and introduce young people to a drug, nicotine, that they should have nothing to do with.

In 1991, 24.3 per cent of Australians aged over 15 years smoked tobacco. That has decreased to just 12.8 per cent, which is fantastic news—a reduction by half. That is a remarkable statistic and represents huge impacts on the lives and health of millions of Australians. Reducing the impact of tobacco on society is also doing wonders for the New South Wales State budget and the Federal budget. Smoking is no longer cool among children: very low rates are being recorded. As a child growing up in Tasmania, smoking was something that kids did because it was a rebellious and accepted act. My grandmother used to get me to roll her cigarettes and would allow me to light them. I am a reformed smoker. I smoked from probably the age of 14 into my early twenties. It was something I struggled to give up.

**The Hon. Dr Peter Phelps:** Clearly the ban on cigarettes was very effective, wasn't it?

**Mr JEREMY BUCKINGHAM:** The bans on cigarettes did work because they made it illegal to sell tobacco products to kids and they made them expensive. The packaging and health warnings had an effect on me. It helped me to quit and it has helped other people. Culturally, smoking is not acceptable. Regulation does not mean we are a nanny state. We are helping our community to deal with an awful product. The report "Australian secondary school students' use of tobacco, alcohol and over-the-counter illicit substances 2011" showed that the overall rate of current smoking among Australian students aged 12 to 17 years was 6.7 per cent and among 12 to 15 year olds 4.1 per cent were current smokers. The smoking rate for males was 4.4 per cent and for females the rate was 3.8 per cent. Among 16 to 17 year olds, 12.9 per cent were current smokers. The smoking rate for males was 13.4 per cent and for females it was 12.3 per cent. Those rates are much too high, but they represent an improvement. The improvement is good news but we must do more to protect young people.

Smoking among young people is a critical factor. Most smokers become addicted to nicotine and tobacco products in their youth. Very few people take up smoking after their early twenties. Ninety per cent of smokers wish they had never started smoking and most want to quit. However, the emergence of e-cigarettes and vaping is a major danger. As the Hon. Walt Secord said, all the big tobacco companies have established e-cigarette brands. They clearly view vaping as a way to re-normalise smoking and get a whole new generation addicted to nicotine. Vaping is advertised by handsome men in expensive suits leaning on Maseratis with beautiful women drinking cocktails at a bar. Terms such as "platinum", "refreshing", "pure satisfaction"—all the same old tricks associated with tobacco advertising—are used.

At this point I wish to highlight the work of activists in previous decades, groups such as Billboard Utilising Graffitiists Against Unhealthy Promotions, [BUGAUP] and others, who did so much to draw our

attention to the dangers of smoking. I will never forget seeing a billboard that carried Alpine cigarette advertising. It stated "Fresh is Alpine" and BUGAUP sprayed out "Alpine" and wrote "Fresh is Dead Leaves". As a teenager, that really hit home. Those activists did so much to highlight the falsities of tobacco advertising.

**The Hon. Dr Peter Phelps:** I remember one. It said, "Have a Whitlam and Gough yourself to death."

**Mr JEREMY BUCKINGHAM:** No, the tobacco slogan was "Anyhow, have a Winfield", and BUGAUP's contribution was "Anyhow, have a wank. It's better for you." BUGAUP's contribution certainly drew the attention of people to the issue and it helped to stop the effect of tobacco advertising in Australia.

**The Hon. Dr Peter Phelps:** Really?

**Mr JEREMY BUCKINGHAM:** It may have been confronting to see that but it was memorable—and true. The e-cigarettes campaign slogans for products such as goVype and Kik UK include "Smoke Anywhere: Experience the Breakthrough—No tobacco. No smoke. Just pure satisfaction for smokers ... Contains nicotine ... Read leaflet in pack". The e-cigarette campaign is working. We are seeing a significant uptake in e-cigarettes in the United States, which is a progressive democracy, among youth. In 2013-14 the use of e-cigarettes tripled, with more than two million high school students using e-cigarettes. Figures from a study in Poland also are concerning. Research led by Maciej Goniewicz, PhD, PharmD, who is a researcher in the Department of Health Behaviour at the Roswell Park Cancer Institute and who worked in collaboration with researchers at the Medical University of Silesia in Poland, found a big uptake in e-cigarettes and tobacco.

The share of Polish students who had tried e-cigarettes increased from 16.8 per cent in 2010-11 to 61.1 per cent in 2013-14. Similarly, current e-cigarette use increased from 5.5 per cent to 29.9 per cent. A striking finding was that with the increasing prevalence of e-cigarette use the number of adolescents who use traditional tobacco products also increased, from 23.9 per cent of adolescents who routinely smoked in the first survey to 38 per cent in the second survey. That type of re-normalisation should send a warning to everyone involved in public health policy in Australia. The use of both the e-cigarettes and traditional cigarettes increased from 65.3 per cent in 2010-11 to 72.4 per cent in 2013-14—so the use of both products went through the roof. Those findings suggest that e-cigarettes are not replacing conventional tobacco cigarettes, at least in that age group. That goes to the crux of the issue, the reason for this bill and the grave concerns of The Greens and others about e-cigarettes—the re-normalisation of smoking.

The re-normalisation of smoking is a major threat because it reactivates the performance of smoking by being able to vape on a bus, in a café, restaurant or bar, at work, in a surgery or here. We should not allow the re-normalisation of the performance of smoking. A 2013 survey found that 15.4 per cent of smokers aged 14 years or more had used e-cigarettes or vaping at least once in the past 12 months. That clearly shows we need new data, as the uptake is changing rapidly and we need to do something to stop it. There are unknown health effects of vaping. This is a new product, just 10 years old, but its uptake, numbered in the millions, has occurred in just the past few years. There is little regulation or information about what is in a vape. Some chemicals used in vapes may be as harmless to digest as food, but what is the effect of constantly inhaling them into human lungs—pulling them down into our lungs hundreds of times a day? That could be catastrophic to a person's health. Many of the chemical flavourings in e-cigarettes have been approved for ingestion in food but not for inhalation up to 200 times a day.

The usage patterns of e-cigarettes are unknown. A single e-cigarette may contain the equivalent of 30 cigarettes. Could people be ingesting more nicotine from e-cigarettes than cigarettes? People can use e-cigarettes in non-smoking places. Nicotine is classified as a poison for good reason. It not only is highly addictive but also is associated with many health issues. Another key consideration is the sale and marketing of highly addictive products to young people. Addiction is a serious issue. Obviously, it is a great source of profit for the companies selling the product and, I dare say, governments collecting excise. But it is a scourge on society and can cripple those addicted, financially as well as by mental health effects. NSW Health warns parents to be "particularly vigilant, as small children may find the contents of the liquids enticing as they may contain fruit or confectionery-flavoured additives".

A study on the availability and promotion of e-cigarettes undertaken by the Cancer Council of New South Wales revealed that those harmful devices are being sold and advertised next to confectionery items at

retail counters across New South Wales. The study found that 82 per cent of audited retail outlets that sold e-cigarettes were advertising and selling the devices with point-of-sale displays often promoting fruit and confectionery flavours. As Simon Chapman stated:

The tobacco industry long ago perfected pious expressions of public concern about juvenile smoking, while knowing how essential new cohorts of young smokers are to its very survival as an industry.

*[The Assistant-President (Reverend the Hon. Fred Nile) left the chair at 1.00 p.m. The House resumed at 2.30 p.m.]*

**Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.**

**Item of business set down as an order of the day for a later hour.**

## QUESTIONS WITHOUT NOTICE

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### STATE INFRASTRUCTURE

**The Hon. ADAM SEARLE:** My question is directed to the Minister for Roads, Maritime and Freight. In the light of the Federal Government's budget declaring that there will be reductions in some New South Wales infrastructure projects, what federally funded projects are being cut in New South Wales?

**The Hon. DUNCAN GAY:** I am unaware of any projects being cut in New South Wales. I have to say that the Government's relationship with the Federal Government has been outstanding. I refer to the Pacific Highway. When we had Albo—I thought he was good, but he turned out to be bad—he went back on his word. The funding split was 80:20 when those opposite were in Government; when we came to government it went back to 50:50.

**The Hon. Walt Secord:** That is absolutely untrue.

**The Hon. DUNCAN GAY:** Well, you made telling untruths an art form. You are the champion of not telling the truth.

**The Hon. Greg Donnelly:** Point of order: The Minister reached over, pointed at the Hon. Walt Secord and said that he "made telling untruths an art form". Those were his words.

**The Hon. Walt Secord:** I am deeply offended.

**The Hon. Greg Donnelly:** Those words are out of order. I ask you to ask the Minister to withdraw them.

**The Hon. Catherine Cusack:** To the point of order: Mr President, I ask you to direct Opposition members not to provoke and interject when the Minister is speaking. It is disorderly. When a response is provoked members opposite then take a point of order.

**The PRESIDENT:** Order! As members may have seen, I was attempting to attract the attention of the Deputy Clerk at the time so I did not see the gesture that was mentioned in the member's point of order. I do not know whether the Minister was pointing at the Hon. Walt Secord or at one of the two members sitting behind him. Therefore, I do not uphold the point of order. However, the Minister was moving beyond the scope of the question, although I note that he was providing some general context.

**The Hon. DUNCAN GAY:** In deference to the sensitivities of the petal opposite, I will move on to other issues.

**The Hon. Lynda Voltz:** Point of order: As the Minister knows, he should refer to members in this Chamber by their correct titles. He should not refer to them as "petal".

**The PRESIDENT:** Order! That is indeed the case. I am sure the Minister will refer to members by their correct titles.



[Interruption]

**The PRESIDENT:** Order! I call the Hon. Walt Secord to order for the first time.

**The Hon. DUNCAN GAY:** The Opposition just wants to take up the time of the House with points of order on its lead question—that is, the one that is going to kill the Government. So be it. The New South Wales Government welcomes the Commonwealth Government's continuing commitment to funding priority transport infrastructure in New South Wales. Further to the national partnership agreement signed last year by the Commonwealth Government and the New South Wales Government, Federal funding of more than \$11 billion over five years has been committed to New South Wales—and I am deadly serious about getting more if I possibly can. Labor governments have been useless and recalcitrant, with funding that was given to them left sitting in boxes. We are after more money for New South Wales. I would hope that those opposite—the losers from the last election—would support us in getting that money into New South Wales. But no, those opposite do not want the money for New South Wales. They do not care about New South Wales. Those opposite do not want to complete any projects.

**The PRESIDENT:** Order! The level of interjection is too high.

**The Hon. DUNCAN GAY:** In 2015-16 the Commonwealth Government will provide \$2.2 billion, with \$7.4 billion over the forward estimates to 2018-19, for projects in New South Wales. The Commonwealth budget has provided Federal funding as follows: Sydney, the Central Coast and Illawarra, Western Sydney airport road package, 80 per cent of the total cost or a maximum of \$2.87 billion. Eighty per cent from the Commonwealth Government—that is better than Albo's 50:50.

**The Hon. Greg Donnelly:** Is that all?

**The Hon. DUNCAN GAY:** "Is that all?" he asks. There they are, the socialist dream, sitting on the backbench saying, "Is that all?" It really is pathetic. Other projects include: the northern Sydney freight corridor, 80 per cent of the total cost or a maximum of \$818 million; WestConnex, the Commonwealth Government has provided funding in its budget of \$1.5 billion, or 50 per cent towards this project, in line with the current agreement with the New South Wales Government; NorthConnex, the Commonwealth Government has provided funding in its budget of \$405 million, or 50 per cent towards this project, in line with the current agreement with New South Wales; the M1 productivity package, including Tuggerah to Doyalson, Kariong to Somersby, and Kariong ramps and Weakleys Drive intersection upgrade, 50 per cent of the total cost. [Time expired.]

#### NATIONAL INFRASTRUCTURE AUDIT REPORT

**The Hon. CATHERINE CUSACK:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister inform the House on Infrastructure Australia's recent audit report on national infrastructure?

**The Hon. DUNCAN GAY:** I thank the member for her important question. Last week the chairman of Infrastructure Australia, the Hon. Mark Birrell, released the Australian Infrastructure Audit. It is a good document. This audit takes a strategic approach to assessing our nation's infrastructure needs and examining the drivers of future infrastructure demand, particularly population and economic growth. The audit essentially told us what we already knew—namely, that for nearly two decades under Labor the building and upgrade of critical transport and freight infrastructure in New South Wales was severely neglected. That is why the New South Wales Liberal-Nationals Government has embarked on the biggest infrastructure spend in this State's history.

I was particularly impressed by the background comments of Mark Birrell. He talked about liveability and about what congestion meant in respect of the liveability of Australia's cities. We claim that our cities are better than many around the world. When we travel the world, it is obvious that they are. However, I suspect that some days they are not quite as good as we would want them to be. He talks about congestion. Congestion hurts our economic viability. It adds extra cost to the production of our goods and services and our ability to conduct business. In addition, when drivers are stopped in traffic and take longer than necessary to complete their journey the environment suffers. Families suffer most of all because it takes more time to commute daily to and from work, which means more time away from home. That is what liveability means. I am impressed because it is sensible to have those daily parameters reflected in economic documents on infrastructure. Some commentators from the left and the right miss that important point. It is obvious that we are pumping more—

**The Hon. Mick Veitch:** Are you talking about Miranda Devine?

**The Hon. DUNCAN GAY:** How dare the Labor Party attack Miss Devine. That is disgraceful. We are pumping more than \$60 billion into world-class infrastructure, including a range of road and public transport projects. For example, we are investing \$8.3 billion to construct the North West Rail Link. Today the Premier and the Minister for Transport announced that the tunnelling on this rail line is more than a third complete. I ask members to compare that incredible progress to Labor's \$500 million central business district metro fiasco. We are delivering; Labor did not. [*Time expired.*]

#### **PACIFIC HIGHWAY FEDERAL FUNDING**

**The Hon. WALT SECORD:** My question is directed to the Minister for Roads, Maritime and Freight. What is the Government's response to community concern about the Abbott Government's decision to cut \$130 million from the Pacific Highway in the recent Federal budget, which was confirmed on 12 May by Deputy Prime Minister Warren Truss?

**The Hon. Duncan Gay:** That is a joke of a question.

**The Hon. WALT SECORD:** It is his words.

**The Hon. DUNCAN GAY:** Warren Truss has been responsible for putting extra money into the Pacific Highway. If members opposite want to talk about people cutting money, let us talk about Anthony Albanese. He slowed this highway down by at least seven years. There are seven extra years in that contract because Labor was playing games.

**The PRESIDENT:** Order! I call the Hon. Walt Secord to order for the second time.

**The Hon. DUNCAN GAY:** Seven years has been added to that project. How many people lose their lives on that highway every year? How dare the Opposition play politics! The 80:20 funding is finally approved and this highway will be finished by 2020. Members opposite do not like it.

#### **E-CIGARETTES**

**Mr JEREMY BUCKINGHAM:** My question is addressed to the Minister for Ageing, representing the Minister for Health. Is the Government aware that millions of young people in Europe and the United States are taking up e-cigarettes? Is the Government concerned that e-cigarettes are re-normalising smoking and that there are currently no laws in New South Wales to prevent vaping in hospitals, schools, on buses or—

**Mr Scot MacDonald:** Point of order—

**The PRESIDENT:** Stop the clock.

**Mr Scot MacDonald:** There is a bill before the House on this issue.

**The PRESIDENT:** Order! I ask the Hon. Jeremy Buckingham to give me a copy of the question. I uphold the point of order. The question is out of order.

#### **ABILITY LINKS NSW**

**The Hon. SCOTT FARLOW:** My question is addressed to Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism.

**The Hon. Dr Peter Phelps:** Point of order: Mr Jeremy Buckingham is clearly smoking a vapour cigarette in this House. More importantly, he is doing so with premeditation. This is an outrageous act against the decorum of this House and he should be punished accordingly.

**Mr Jeremy Buckingham:** To the point of order: I am not smoking.

**The Hon. Lynda Voltz:** To the point of order: There have been clear rulings about the use of props in this House. That is an obvious use of props. I ask you to call the member to order.

**The PRESIDENT:** Order! President Burgmann, President Primrose, President Fazio and I have ruled that it is unparliamentary for members to use props. I ask Mr Jeremy Buckingham to not use props any further. I call Mr Jeremy Buckingham to order for the first time. I ask the Hon. Scott Farlow to restart his question.

**The Hon. SCOTT FARLOW:** My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister update the House on how Ability Links NSW is operating to support the people of this State with a disability?

**The PRESIDENT:** Order! I call the Hon. Dr Peter Phelps to order for the first time. I call the Hon. Penny Sharpe to order for the first time. I call the Hon. Sophie Cotsis to order for the first time. If another member interjects during the question they will be regarded as being grossly disorderly.

**The Hon. JOHN AJAKA:** Members know that I am strongly committed to the transition of disability services to the National Disability Insurance Scheme. I am also well aware that we must empower people with disabilities, their families and carers so that they are able to make their own fully informed decisions. Ability Link NSW is a key foundation of the Government's plan to reshape and improve the way that people with disability, their families and carers are supported by placing them at the centre of decision-making. It was launched in the Hunter area in July 2013 in support of the implementation of the National Disability Insurance Scheme [NDIS]. In July 2014 the program expanded statewide so that families across New South Wales could have access to a "linker". These ongoing reforms in the disability space are unprecedented.

Ability Links continues to support these reforms and the move towards full community participation for people with disability and the transition to the NDIS. There are 16 non-government organisations and joint working arrangements in place across New South Wales delivering the Ability Links program, 12 of which are Aboriginal organisations and partnerships. The New South Wales Government has committed \$31.6 million annually for a total of 268 Ability Links coordinator positions known as "linkers" across New South Wales, including 47 Aboriginal identified positions. Linkers work with people with disability, their families and carers at a local level and in their own communities to help them plan for their future, to build on their strengths and to develop networks so that they can do what they want with their lives outside of the traditional disability service system. Linkers work with local communities to help them be more welcoming and inclusive of people with disability. Up to the end of March this year linkers had made almost 160,000 community connections.

Since the program's inception Ability Links has directly assisted more than 13,700 people statewide, including more than 3,500 individuals who identify as Aboriginal and more than 1,800 individuals who identify as being from a culturally and linguistically diverse background. The New South Wales Government continues its commitment to ensuring that Ability Links is accessible and relevant to people from all communities and that the supports provided are responsive to the diversity of the people of New South Wales. I have attended a number of local events where I have witnessed Ability Links providers coming together to promote the program, with community organisations and businesses volunteering their time and services and overall local community involvement.

We are now at a stage where we can examine and evaluate the first three years of the implementation of Ability Links NSW. The initial evaluation report about Ability Links highlighted the outcomes being achieved by individuals and communities. Some of the kind findings include: Ability Links NSW delivers significant economic benefit to the wider New South Wales community, and engagement with the program has the potential to produce direct economic benefits—for example, volunteering and employment opportunities and improved health outcomes as a result of participating in physical activities; people engaging with Ability Links report indirect individual and community benefits, including improved self-esteem, family cohesion and community connectedness; and at fully operational capacity it is projected that Ability Links will return \$1.50 in benefits for every dollar spent, with the potential to achieve even more. I am proud of this achievement. I am also proud of the work that has gone into this initiative, which provides vital support to the people who really matter.

### TRANS-PACIFIC PARTNERSHIP

**Dr JOHN KAYE:** I direct my question to the Minister for Roads, Maritime and Freight, representing the Treasurer. What steps has the Baird Government taken to ensure that the Trans-Pacific Partnership does not limit the Treasurer's power to invoke a network administration order or exercise other powers over privatised network operators without the risk of triggering Investor-State Dispute Resolution [ISDR] procedures and the threat of being taken to the industrial tribunal?

**The Hon. DUNCAN GAY:** I thank Dr John Kaye for his question. He will not be surprised to know that I do not have a detailed answer to his question. I will refer his detailed question to the Treasurer for a response.

### HUNTER REGION AND CENTRAL COAST FLOODS

**The Hon. GREG DONNELLY:** I direct my question without notice to the Parliamentary Secretary for the Hunter and Central Coast. I refer to the comments of the member as reported in the *Maitland Mercury* on 22 May:

... if you're negative; if you're a protestor ... go and see someone else. I'm not your man.

Does the member stand by his statements to flood-affected families?

**The PRESIDENT:** Order! Questions directed to Parliamentary Secretaries are out of order.

### RURAL INDUSTRIES RESEARCH AND DEVELOPMENT CORPORATION RURAL WOMEN'S AWARD 2015

**The Hon. SARAH MITCHELL:** I address my question to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the work of rural women in rural New South Wales? How is the Government supporting rural women?

**The Hon. NIAL BLAIR:** I thank the honourable member for her question. Last night it was a privilege to celebrate and crown the winner of the 2015 Rural Industries Research and Development Corporation [RIRDC] New South Wales-Australian Capital Territory Rural Women's Award. This award is an important platform to identify and support emerging female leaders who have the desire, commitment and leadership potential to make a greater contribution to primary industries and rural communities. It identifies women who are exceptional role models for their communities, with a passion for rural and regional New South Wales.

I was pleased to announce Cindy Cassidy of Arian Park as the 2015 award winner. Cindy was born and bred on a sheep and grain farm in Arian Park and has always been an advocate for the bush. She was selected from a field of skilled, highly committed and enterprising women from across the State. Her love of agricultural research and strong desire for positive change has been a consistent theme throughout her life, including in her current position as the chief executive officer of FarmLink Research, a not-for-profit farming systems group, servicing farmers and agribusiness across the region. It is her ambition to improve the relevance and effectiveness of local agricultural extension in order to support farmers in the adoption of innovation and to maximise returns from investment in agricultural research and development, which has led her to where she is today. I congratulate Cindy on this wonderful achievement and wish her all the best in pursuing all the opportunities this award affords her. Cindy will receive a bursary of \$10,000 and will participate in the RIRDC Australian Institute of Company Directors' course.

Sophie Anderson, a rural barrister from the North Coast, and Trudy McElroy, who runs a share-farming broadacre farming enterprise from Deniliquin, were worthy finalists in this year's award. All of the finalists are striving for the best for their industry, their families and their community, and are making a real difference in regional areas of our State. It was my honour to recognise these achievements and support our finalists in going forward, as they continue to inspire and drive change in their communities and industries. Sophie and Trudy will receive a \$1,000 Department of Primary Industries [DPI] leadership bursary to put towards skills and leadership development.

Cindy will now compete for the Australian RIRDC Rural Women's Award, which will be held later this year in Canberra. The RIRDC New South Wales-Australian Capital Territory Rural Women's Award is coordinated by the DPI Rural Women's Network, with financial support from NSW Farmers, the Office of Environment and Heritage, and the Country Women's Association of New South Wales. Many members in this Chamber were there last night to support these women, including the Hon. Sarah Mitchell, the Hon. Bronnie Taylor, the Hon. Catherine Cusack, the Hon. Rick Colless, the Hon. Ben Franklin, Mr Scot McDonald, the Hon. Mick Veitch, the Hon. Robert Brown and Ms Jan Barham. I thank all those members for their support.

As we celebrate the success of these women, the challenge remains as to how we continue to attract, foster and create a workforce and participation in the industry by bright young men and women. A recent report

titled "Empowering Women in Agriculture" identified that the Australian agricultural sector in particular faces challenges from environmental change and a competitive global market. But in order to encourage more young women to see agriculture as a viable career path in Australia we need to both empower women and change the way that agriculture is portrayed. The finalists for this year's awards are truly pioneers in their fields and serve as a reminder that women in our communities are leading the way in innovation and forward thinking, and they are paving the way for a very bright future for regional New South Wales.

### ANIMAL WELFARE STANDARDS

**The Hon. MARK PEARSON:** I direct my question without notice to the Minister for Primary Industries. Is the Government aware that it supports, via a memorandum of understanding with the NSW Farmers Association, non-mandatory standards of animal welfare guidelines and standards, unlike any other Australian State or Territory?

**The Hon. Duncan Gay:** Point of order: The question contains argument.

**The PRESIDENT:** Order! I will allow the Hon. Mark Pearson to finish his question. Undoubtedly, the point of order is correct. But if the member concludes his question and the Minister answers the part that is in order, I will allow that on this occasion. The Hon. Mark Pearson will need to be careful not to include argument in his questions in future.

**The Hon. MARK PEARSON:** My question is complete: Is the Government aware that there is this memorandum of understanding with NSW Farmers in relation to non-mandatory standards for animal welfare in New South Wales?

**The Hon. NIAL BLAIR:** I thank the Hon. Mark Pearson for his question. To avoid any misapprehension about where the standards are at, it is important that I go through some information in relation to animal welfare standards, the position in New South Wales and how that fits into the national context. The Australian Animal Welfare Standards and Guidelines are part of a project, under the Australian Animal Welfare Strategy, to convert the existing model codes of practice for the welfare of animals to standards and guidelines. An important element of the strategy is to advance animal welfare by the development of nationally consistent standards for regulation.

Standards for pig welfare and land transport of livestock have already been mandated in all States. Standards for saleyards, abattoirs and exhibited animals are currently being developed. The sheep and cattle standards have been finalised and their regulatory impact statements approved by the Office of Best Practice Regulation. The documents have been endorsed by the national Animal Welfare Task Group for submission through the Agriculture Senior Officials Committee to the Agriculture Ministers Forum for endorsement. In accordance with a memorandum of understanding with NSW Farmers, the NSW Government intends to adopt the Australian Animal Welfare Standards and Guidelines for Cattle and Sheep as prescribed guidelines under section 34A of the Prevention of Cruelty to Animals Act 1979. This understanding applies only to the cattle and sheep standards and guidelines, and will mean that they will not be mandatory but can be used as evidence in proceedings under the Act or its regulations.

The welfare of animals in New South Wales, including farm animals, is protected under the Prevention of Cruelty to Animals Act and the prevention of cruelty to animals regulation. There are already mandated requirements for cattle and sheep which focus on unacceptable practices relating to cruelty; transport; failure to provide food, drink and shelter; certain painful procedures and the use of electrical devices. Public consultation submissions have been received on the exhibited animals standards and are currently being analysed. The regulatory impact statement is being redrafted following this consultation. The review of the poultry code and its conversion to standards and guidelines will commence this year.

The review of the requirements for rodeos is near finalisation, and the review of the requirements for pounds and shelters is underway. I will be requesting that the revitalised Animal Welfare Advisory Council provide me with advice on the review program. I conclude by highlighting for the House that I have every confidence that staff in the Department of Primary Industries take the issue of animal welfare very seriously, as do I. I have every confidence that they and my office are up to speed with what is happening within the sector. Some industry groups are looking towards their own practices and codes. We have been liaising with other States and going through the memorandums, codes and regulations which I have just described. I assure the House that this Government does take seriously the issue of animal welfare, and it has the right people on the job. It will continue to do so every day and to put the welfare of animals at the forefront.

**The PRESIDENT:** Order! First, for the general guidance of all members, Standing Order 64 is quite specific about questions put to Ministers. Other members may have questions asked of them relating to any matter connected with the business on the *Notice Paper* of which that member has charge. Otherwise it is not in order for members to ask other members questions. Secondly, questions should seek information as opposed to opinion. Question time is for seeking information. Finally, questions must relate to matters within the Minister's responsibility or to any matter of administration for which the Minister is responsible. Questions may be put to Ministers relating to public affairs for which the Minister is officially connected.

### **EAST HILLS ELECTORATE ELECTION CAMPAIGN**

**The Hon. LYNDIA VOLTZ:** My question is directed to the Minister for Roads, Maritime and Freight. In light of the member for East Hills' campaign bus crashing into a set of traffic lights at the corner of Uranus and The River roads in Revesby on 28 February, will the Minister guarantee that the cost of the repair to this set of traffic lights was not paid for by the New South Wales taxpayer?

**The Hon. DUNCAN GAY:** I thank the Hon. Lynda Voltz for her question, which is just part of Labor's continuing smear campaign. It may well be—

**The Hon. Lynda Voltz:** Point of order: My question was quite specific. It relates to the crashing of the East Hills campaign bus into traffic lights and whether the New South Wales taxpayer paid for the repair of the traffic lights. Mr President, I ask that the Minister be brought back to the question.

**The PRESIDENT:** Order! I do not think the Minister had strayed very far at all. The Minister was attempting to answer the question. There is no point of order.

**The Hon. Daniel Mookhey:** The Minister can give us the answer anonymously.

**The Hon. DUNCAN GAY:** The Hon. Daniel Mookhey is taking the training wheels off. The Hon. Walt Secord should watch out—the Hon. Daniel Mookhey was looking at his chair. I think he would fit it better than the Hon. Walt Secord.

**The Hon. Walt Secord:** He has his eye on your seat.

**The PRESIDENT:** Order! I remind the Hon. Walt Secord that he is on two calls to order.

**The Hon. DUNCAN GAY:** There are standard procedures for matters like this, and it is not something a Minister should interfere with.

### **WESTCONNEX**

**The Hon. LOU AMATO:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on some of the benefits that WestConnex will provide for the people of Sydney?

**The Hon. DUNCAN GAY:** Finally, a positive question from a positive member.

**The Hon. Greg Donnelly:** We heard all about being positive earlier.

**The Hon. DUNCAN GAY:** Well, we did not, because the Hon. Greg Donnelly was out of order. This Government has taken up the long-neglected challenge of providing for Sydney's future transport needs. Through major investment in public transport and road infrastructure, the Government is delivering a complete transport solution for the people of Greater Sydney. Traffic forecasting is important to the planning of infrastructure but it needs to be understood that this is a normal part of developing large projects and can have many variables, particularly in the early stages.

As traffic modelling is refined during the detailed design stages, the data is published in the environmental impact statement [EIS] for community feedback. The same will happen for WestConnex when we get to that final stage. It appears that some in the media have incorrectly interpreted some complex initial traffic data and sought to glue this together into some sort of anti-WestConnex story.

**The Hon. Penny Sharpe:** Well, you were not able to explain it.

**The Hon. DUNCAN GAY:** If the Hon. Penny Sharpe is having another go at Miranda Devine then that is disgraceful. She is the second Labor member to do so.

**The Hon. Lynda Voltz:** Point of order: It is disorderly for the Minister to direct comments at members on this side of the Chamber particularly when those comments are about interjections that members have not made.

**The PRESIDENT:** Order! I agree. I remind the Hon. Penny Sharpe that she is on a call to order. She will cease interjecting. I remind the Minister that responding to interjections is disorderly.

**The Hon. DUNCAN GAY:** I am advised that the traffic forecasts quoted in the article are in fact based on old WestConnex alignment and intersection configurations that are no longer part of the project. Had the journalist sought our assistance to explain this technical data or showed us the context of his so-called documents we could have helped him and set him straight. More importantly, the article misses the bigger picture. WestConnex is just one part of a major infrastructure package to effectively manage population growth in Sydney. WestConnex traffic modelling that has been ticked off by experts from Infrastructure Australia and Infrastructure NSW shows that the inner south will improve with WestConnex as opposed to doing nothing, which is what members opposite want to do.

**The PRESIDENT:** Order! I call the Hon. Lynda Voltz to order for the first time.

**The Hon. DUNCAN GAY:** They want to do nothing. Inner south traffic will improve because traffic will be diverted into an underground tunnel. I have spoken about our expert reports that have been ticked off by Infrastructure NSW and Infrastructure Australia, but there is another report out there. It is the City of Sydney report on WestConnex. I will quote from it. I sent the journalist in question the quote but for some reason it did not fit his article and did not appear in print.

**The Hon. Dr Peter Phelps:** Was that a Fairfax journalist?

**The Hon. DUNCAN GAY:** I cannot say. We cannot be harsh on Fairfax.

**The PRESIDENT:** Order! I remind the Minister not to respond to interjections.

**The Hon. DUNCAN GAY:** At page 24 the report says that parts of the inner south will see a reduction in traffic on local roads as through traffic is diverted into motorways, especially the tunnel constructed as part of stage 3. This is Clover's report. It is pure gold. Clover's report says that parts of the inner south will see a reduction in traffic on local roads as through traffic is diverted into the motorways, especially the tunnel as part of stage 3. [*Time expired.*]

## SOCIAL HOUSING

**The Hon. PAUL GREEN:** My question without notice is directed to the Minister for Disability Services, representing the Minister for Social Housing. I refer to comments made on 25 May this year by former New South Wales Premier Nick Greiner, who stated that in many areas the Government has made New South Wales number one again; however, about the area of social housing he said:

... we are not number one and we are very much closer to number six ... And if you count the territories, we are very much closer to number eight.

Regarding the Department of Community Services he said:

You could characterise them as being risk-averse, conservative in the worst sense of the word, worried about failure rather than worried about trying things.

Will the Government commit to a formal plan with numerical targets to increase the supply of social and affordable housing in New South Wales over the next four years? If so, will the Government quicken established partnerships with community housing providers and peak bodies to implement these targets?

**The Hon. JOHN AJAKA:** The starting point is clearly the failure of members opposite on social housing during their 16 years in government. They know that.

**The PRESIDENT:** Order! I call the Hon. Sophie Cotsis to order for the second time.

**The Hon. JOHN AJAKA:** When we look at the incredible work by former Ministers Pru Goward and Gabriel Upton and now the great Minister Brad Hazzard on social housing we can appreciate that their hard work was done on the basis of the foundation built by the Hon. Greg Pearce. His great work in this area is clear. Sadly, the Hon. Greg Pearce had to commence his work after 16 disastrous years. That is the fact.

**The PRESIDENT:** Order! I call the Hon. Mick Veitch to order for the first time. I call the Hon. Penny Sharpe to order for the second time.

**The Hon. JOHN AJAKA:** I will refer the specifics of the question to the Minister and come back with an answer.

### WOY WOY MOTOR REGISTRY

**The Hon. COURTNEY HOUSSOS:** My question is directed to the Minister for Roads, Maritime and Freight. In light of the Government's announcement that the Woy Woy Motor Registry will be closing its doors on 8 August, how will elderly residents who are only allowed to drive within 8 kilometres of their home be able to renew their licences when the nearest motor registry will be more than 12 kilometres away?

**The Hon. DUNCAN GAY:** I thank the member for her question. I think that is her second or third question and they have all been very good. Unfortunately, she is asking the wrong Minister. Service NSW is responsible. I am more than happy to pass the question on to Service NSW for a detailed answer.

### ETHNIC COMMUNITIES COUNCIL OF NSW

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister update the House on the work of the Ethnic Communities Council of NSW and its 40 years of service?

**The Hon. JOHN AJAKA:** As Minister for Multiculturalism I am pleased to pay tribute to the Ethnic Communities Council of NSW for its work over the past 40 years. A celebration dinner was held on 21 May 2015 to mark the anniversary of the formation of the Ethnic Communities Council [ECC] at Sydney Town Hall in 1975, when community leaders decided to band together to form a peak body for multicultural groups. I was honoured and privileged to be part of the celebration dinner. I acknowledge a number of former Ministers for Multiculturalism who also attended the event, being the Hon. George Souris, His Honour John Hatzistergos, Michael Photios and my colleague and predecessor, the Hon. Victor Dominello. Labor's shadow Minister for Multiculturalism, the Hon Sophie Cotsis, was also in attendance. In the 40 years since the ECC was founded it has become a strong voice in our State speaking on behalf of hundreds of thousands of citizens and taking the lead on multicultural practice.

Nowadays, nearly half of our State's population was either born overseas or has at least one parent who was born overseas. Many of those people are in this Chamber today. We come from 245 different ancestries, speak about 215 different languages, and practise about 125 religions. As such, while paying tribute to the important pioneering work of the Ethnic Communities Council I was pleased to note that the council is expanding its representation to include newer groups of migrants who are making New South Wales their home. The event showcased the spirit of diversity that is alive and well in New South Wales. Those in attendance included original members of the first meeting at the Sydney Town Hall in 1975. It was an honour to have an opportunity to speak to them about the event. Since its humble beginnings the Ethnic Communities Council has grown to become one of the peak community organisations in New South Wales representing grassroots groups of diverse communities.

By working together the New South Wales Government and the ECC can have a sharper focus on community engagement and improving access, opportunities and participation in public life for all of the people of New South Wales. The New South Wales Government has been pleased to support the ECC since its establishment. Multicultural NSW continues to provide an annual grant and works collaboratively with the ECC.

The Multicultural NSW Act 2000 underpins the importance of cultural and linguistic diversity as a social and economic asset of New South Wales. It emphasises that we are all committed to maintaining social



harmony and cohesion. As Australians we are all free to practise and celebrate our unique cultural diversity, religion and heritage—but because of the State of Origin, today is one of those days when we can say that we are proud to be New South Welsh men and women rather than simply proud to be Australians. We rely on the collaboration and engagement of organisations such as the ECC to create bridges among communities, to foster mutual respect, understanding and harmony among people from all walks of life.

A strong and vibrant ECC can work hand in hand with the Government with a sharper focus on community engagement. Together we can all move towards improving access, opportunity and participation for all citizens of New South Wales. I am delighted to recognise the sterling achievements of the ECC over the past 40 years and applaud its vision of a harmonious multicultural society. In conclusion, I thank the Chair, Mr Peter Doukas, and the ECC board for all their efforts, not only throughout the anniversary celebration but in all that they do.

### TRANSPORT FOR NSW CONTRACTS

**Reverend the Hon. FRED NILE:** My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Transport and Infrastructure. Whilst appreciating the value of Standing Order 52, is it a fact that Transport for NSW's bus contracts were reviewed under Standing Order 52 as a result of a motion moved by the Hon. Penny Sharpe in 2013? Is it also a fact that the cost of processing those papers cost Transport for NSW \$398,713, covering 460 internal hours and 521 external hours, to review 98,000 documents and produce a further 70,000 documents—a total of 168,000 documents? Will the Minister inform the House of the results of this labour-intensive task?

**The Hon. DUNCAN GAY:** I thank Reverend the Hon. Fred Nile for his question. I certainly remember indicating that at the time.

**The Hon. Walt Secord:** He has more information than you do.

**The Hon. DUNCAN GAY:** He does.

**The Hon. Walt Secord:** He will have had more information in the question than you will have in the answer.

**The Hon. DUNCAN GAY:** The information is in the question, which is very important. I listened to the information and I cannot disagree. The results were articulated to the House by the Hon. Penny Sharpe who said at that time, "We put it in, and we got 40 boxes of rubbish." In other words, it was just a huge waste of time as well as a waste of taxpayers' money.

**The Hon. Penny Sharpe:** It was not.

**The Hon. DUNCAN GAY:** The Hon. Penny Sharpe should tell us what she really said, if she believes it is different from what I have suggested.

**The Hon. Penny Sharpe:** Point of order: I believe that the question and the Minister's answer are out of order. The question canvasses a resolution of this House to call for those documents to be produced.

**The PRESIDENT:** Order! It could well be the case that the Hon. Penny Sharpe is correct. However, longstanding practice and rulings made by successive Presidents is that once an answer has commenced, the time for challenging whether a question is in order has passed. For that reason I cannot uphold the point of order.

**The Hon. DUNCAN GAY:** The Government has indicated that the Opposition's whole approach should be more discrete. If Opposition members believe there is something in the documents that they want, instead of embarking on a huge fishing expedition they should refine their request so they do not waste money. After all, that wasted money could have been used to install facilities for disabled people in railway stations or for the improvement of classrooms in regional areas. That sort of waste creates disadvantage, but there is arrogance among the Opposition because the losers are sitting on the red lounge.

**The Hon. Greg Donnelly:** Point of order: The Minister is reflecting on me as a member of the Opposition who may from time to time wish the standing rules and orders of this House to be applied to

the production of documents. It is completely inappropriate for the Minister to make imputations about my motivation and the motivation of others. Mr President, I ask you to direct the Minister to cease and desist.

**The PRESIDENT:** Order! The Hon. Greg Donnelly is drawing the longbow by objecting to the Minister's comments. The Minister has the call.

**The Hon. DUNCAN GAY:** What I am suggesting is the use of restraint so there will not be a recurrence of so much money being wasted on so many boxes of documents being produced, only for the Hon. Penny Sharpe to say, "It is just rubbish." It was not what she wanted. If she had known what she wanted, she could have targeted that information. That is the problem the Government has with this. I suspect Opposition members have not learned that lesson yet, but I hope they do.

### REGIONAL WATER SECURITY

**The Hon. RICK COLLESS:** My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Will he update the House on how the New South Wales Government is addressing regional water security in its Rebuilding NSW plan?

**The Hon. NIALL BLAIR:** I thank the Hon. Rick Colless for his important question. We have a once-in-a-generation opportunity to transform regional New South Wales. The Government's Rebuilding NSW plan will result in \$1.25 billion being invested in regional community water supplies to help our country towns to become more drought-resilient and to support population growth. That is the most significant single investment in regional water supplies in the history of New South Wales. The New South Wales Liberals and Nationals Government's Rebuilding NSW regional water security and supply fund will deliver \$1 billion with a further \$250 million allocated under our existing Restart NSW funds to meet the water challenges that exist in regional communities. Those challenges include providing more high-quality drinking water, meeting the growing demand for water in our country towns and villages, as well as addressing drought security, dam safety and inadequate wastewater treatment.

**The PRESIDENT:** Order! There is far too much audible conversation by Government members. I cannot hear the Minister's answer.

**The Hon. NIALL BLAIR:** They are excited about the news. This unprecedented investment will fund a number of major regional water security programs across the State. Firstly, we have committed up to \$550 million through Rebuilding NSW funding to deliver water infrastructure in the State's priority catchments of the Upper Hunter, Gwydir, Macquarie and Lachlan river systems to help to reduce drought conditions that are crippling local economies. A further \$10 million will be contributed from Restart NSW funding. The New South Wales Government currently is formulating a business case for the Lachlan River with a focus on a new dam on the Belubula River. The Office of Water is undertaking the development of regional water plans for the Hunter, Macquarie and Gwydir rivers. Development of the Hunter plan has commenced. Once the process has been agreed, work will commence on the Macquarie and Gwydir, using the same procedure.

Secondly, we have committed up to half a billion dollars from both Restart NSW and Rebuilding NSW to finalise a business case for short-term and long-term water security for Broken Hill where supplies currently are critically low. Thirdly, as part of the Country Town Water Supply and Sewerage Program, \$110 million, which is part of the Restart NSW funding, will go towards clearing a backlog of 71 projects in country towns that are affected by ongoing sewerage problems. For far too long, governments have found only bandaid solutions, but this program is about ensuring that no matter where people live in New South Wales—Drummoynes or Dunedoo—they will have access to good-quality drinking water and sewerage facilities. After two decades of the program being in place, this Government will clear that backlog. In 1996 the previous Labor Government first identified the backlog but, typical of Labor, that Government never bothered allocating enough funding to actually clear it.

Fourthly, \$50 million from Rebuilding NSW will be allocated to finalise a business case for securing Cobar's water supply by replacing the Albert Priest Channel with a pipeline. A further \$100,000 will be added from Restart NSW. I am pleased to update the House that Infrastructure NSW is working with the Bogan Shire Council and the Cobar Water Board on developing the business case for piping for the Albert Priest Channel. This massive investment demonstrates that the New South Wales Liberals and Nationals Government is leading the charge in delivering significant water infrastructure projects, increasing water security and ensuring

access for our State's hardworking primary producers. Rebuilding NSW will put an end to our chasing of our tails. This project is about being bold and building big because regional New South Wales deserves nothing less.

### **BALLINA KOALA COLONY**

**The Hon. PENNY SHARPE:** My question is directed to the Minister for Roads, Maritime and Freight. Given section 10 of the construction of the Pacific Highway has been found to endanger the viability of Ballina's koala colony and that the Federal Government has set conditions in relation to the koala colony, will the Minister ensure that when reporting on these conditions to the Federal Government the Roads and Maritime Services report is made available for scientific and community comment?

**The Hon. DUNCAN GAY:** We are looking forward to Walt's koala park. Not only are we doing those things, we are way on top of this issue. We have put an expert committee in place to oversee this work. Some of the finest intellectual minds in this country are watching over it. There are no tougher rules anywhere in the country than there are on this section of the Pacific Highway. The Government values our koala colonies. We will be doing everything we can to protect the koalas and enhance their ability to survive.

If members have any further questions, I suggest they place them on notice.

### **PACIFIC HIGHWAY FEDERAL FUNDING**

**The Hon. DUNCAN GAY:** Earlier in question time the Hon. Walt Secord wrongly claimed that the Australian Government had reduced funding for the Pacific Highway upgrade. Sadly, the member was simply parroting the disingenuous claims of Anthony Albanese, the very person who abolished the 80:20 funding split between the Australian and New South Wales governments in 2011. What the member has failed to understand or appreciate is that the Federal budget shows no money in 2019-20 for the Pacific Highway because the upgrade will be finished by then. It is very simple; the member can get out the Cuisenaire rods. Opposition members cannot control themselves; they have to find evil somewhere. They cannot accept that a good government is doing good things for the people of the State, and they try to discredit it. The Opposition members are wrong again; they are lazy and loose with the truth.

**Questions without notice concluded.**

### **CRIMES LEGISLATION AMENDMENT (CHILD SEX OFFENCES) BILL 2015**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka.**

**Motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka, agreed to:**

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

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

### **GENERAL PURPOSE STANDING COMMITTEES**

#### **Chairs and Deputy Chairs**

**The PRESIDENT:** I inform the House that at meetings held today the following members were elected as Chairs and Deputy Chairs of general purpose standing committees of the Legislative Council:

#### **General Purpose Standing Committee No. 5**

Chair: Mr Brown  
Deputy Chair: Mr Veitch

#### **General Purpose Standing Committee No. 6**

Chair: Mr Green  
Deputy Chair: Mr Amato

**PACIFIC HIGHWAY FEDERAL FUNDING****Personal Explanation**

**The Hon. WALT SECORD**, by leave: I wish to make a personal explanation with regards to the Minister for Roads, Maritime and Freight and the funding of the Pacific Highway on the North Coast. I was misrepresented by the Minister in a supplementary answer at the conclusion of question time. I was referring to a report in the Lismore *Northern Star*. The Minister claimed that the Government was providing record funding. I seek leave to table the report.

**The PRESIDENT:** Order! Leave has been withdrawn. The Hon. Walt Secord will resume his seat.

**Leave withdrawn.**

**PUBLIC HEALTH (TOBACCO) AMENDMENT (E-CIGARETTES) BILL 2015****Second Reading**

**Debate resumed from an earlier hour.**

**Mr JEREMY BUCKINGHAM** [3.35 p.m.]: Earlier I had referred to comments by Mr Simon Chapman. Mr Chapman also said:

Today, an ever-diminishing 12.8% of Australians aged 14 years and over smoke on a daily basis. The record low uptake of smoking by the young is most responsible for this. The prospect of the industry reversing this inexorably ruinous exodus has been given a major boost with the arrival of ECs.

Those who would argue that e-cigarettes allow people to cease smoking fail to recognise a key fact; that is, that a small proportion of people who use e-cigarettes actually quit smoking. The risk is that at the other end of the spectrum we open up to society the prospect of millions of people becoming addicted to nicotine through e-cigarettes, moving on to tobacco and, ultimately, succumbing to ill health and death. The bill before the House fails in a number of key areas.

While it will be illegal to sell or provide e-cigarettes to children—following amendments by The Greens—the industry can still sell products that, NSW Health warns, small children may find "enticing, as they may contain fruit or confectionary-flavoured additives". The industry can still advertise its products to appeal to children. E-cigarettes can still be sold next to fruit and lollies at convenience stores. E-cigarette manufacturers can sponsor sports clubs and children's events. There will be no requirement to accurately list ingredients in e-cigarettes. E-cigarettes will continue to have no health warning associated with them. E-cigarettes can be sold in a form that directly resembles cigarettes or cigars. E-cigarettes can be smoked in hospitals and schools, on buses and in parliaments.

**The Hon. Greg Donnelly:** Not in the House.

**Mr JEREMY BUCKINGHAM:** I note the interjection. There is nothing to stop people smoking e-cigarettes in the public gallery.

**The Hon. Greg Donnelly:** Yes, there is.

**Mr JEREMY BUCKINGHAM:** No, there is not. It is clear that e-cigarettes should be treated in the same way as tobacco. At present, electronic cigarettes do not come under the Smoke-free Environment Act 2000 and are not covered by advertising and promotion bans. The Greens will be supporting Labor's amendments because its amendments move this debate in the right direction.

**The DEPUTY-PRESIDENT (The Hon. Trevor Khan):** Order! There is too much audible conversation in the Chamber.

**Mr JEREMY BUCKINGHAM:** NSW Health's own policy bans e-cigarettes on its premises in order to eliminate the risks of exposure to particulate matter that is emitted from second-hand vapour. The policy goes on to note that this cannot be enforced, stating, "Please note that in the case of electronic cigarettes smoke-free by-laws and the Smoke-free Environment Act 2000 currently do not apply". That means that penalty

infringement notices cannot be issued to people using electronic cigarettes in places where they have been banned. So people can use e-cigarettes or vape on a bus or a tram, while they are teaching at a preschool or performing neurosurgery, or in the parliamentary precinct.

**The Hon. Greg Donnelly:** Not in the House.

**Mr JEREMY BUCKINGHAM:** Yes, they can, and that is a disgrace. The Cancer Council stated:

Although the recent announcement by the NSW Government to ban the sale of e-cigarettes to minors is a step in the right direction, we know an overall comprehensive approach is the best way forward to curb the dangers of these devices.

The Heart Foundation stated:

We'd also like to see legislation that bans the marketing and promotion of e-cigarettes to children. Together with the sales ban, this would go a long way in reducing demand for and use of e-cigarettes among our youth.

Treating e-cigarettes as tobacco will not stop people being able to purchase them but it will bring this potentially very harmful product which normalises smoking under proper regulation. The Greens will be bringing forward amendments at the Committee stage. I foreshadow that we will be supporting Labor's sensible amendments and, ultimately, we will be supporting the bill. I appeal to the crossbenches to support our amendments and those of Labor. The Hon. Walt Secord has done an enormous amount of work on this issue and his amendments should be supported. I hope that the House will support the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 because ultimately we will have to deal with e-cigarettes as we do with nicotine and tobacco, otherwise the youth of Australia will be at risk from this product.

**The Hon. ERNEST WONG** [3.40 p.m.]: I speak on the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. I indicate that I support the amendments proposed by the Hon. Walt Secord. I wholeheartedly support the ban on selling e-cigarettes to minors; however, we need to go further in order to serve the ultimate purpose of discouraging young people from taking up smoking. I commend the Hon. Walt Secord on his diligent approach to this matter. As always, he has brought an intelligent and measured response to this issue and one that is well informed by his discussions with health stakeholders.

**The Hon. John Ajaka:** Did Walt write that for you?

**The Hon. ERNEST WONG:** Definitely not; he is a respected person. On this issue it is clear that key health stakeholders are on side with Labor's position. The Heart Foundation and Labor are singing from the same song sheet, both welcoming the fact that the Government is at least prohibiting e-cigarette sales to minors. But both are seeking further regulation to ensure that e-cigarettes are treated in the same way as their non e-cigarette cousins. The reasons for this are clear: E-cigarettes are a technological response by the tobacco industry to decades of regulatory strategies to reduce smoking uptake. Those strategies have been resisted, contested, avoided and reinterpreted by the tobacco industry at every turn. I say this without vitriol. Indeed, from an entrepreneurial point of view, the sheer tenacity and inventiveness of the tobacco industry is a marvel—at least, it would be were it not for the consequences.

The consequences have proven terrible for individuals and terribly expensive for governments. No wonder then that successive New South Wales governments have made eliminating smoking a health priority. This includes eliminating pathways to smoking, both literal and psychological. Let me remind those opposite—who seem keen to not treat e-cigarettes as cigarettes—of the many areas to do with smoking that have long since been banned in this country. They include any advertising of tobacco products, any sponsorship by tobacco brands, and any sale of candy, chocolate or toy products that resemble cigarettes.

This last item is interesting. Members of a certain age may recall the many brands of chocolate cigarettes that could be found in lolly shops and supermarkets. They were banned from sale in New South Wales in 1999 and they are now a nostalgic thing of the past. I mention this item in particular because there appears to be an argument from those opposite that e-cigarettes need not attract more stringent regulation because in their non-nicotine form they are harmless. In an immediate sense, they are correct. Vaping a watermelon-flavoured e-cigarette has no immediate health risk. Watching a commercial for cigarettes also has no immediate health risk, nor does watching a cricket match sponsored by a cigarette brand or eating a chocolate cigarette—unless one is watching the calories. But all this ignores the real risk of each of these activities, that is, they normalise, glamorise and popularise smoking.

We know this is so after decades of consistent data about the psychological and social pathways to smoking uptake. We know that the more devices, images, toys and messages that normalise smoking in a young

person's life the more likely they are to take up the habit—and successive governments have responded. There is a real dissonance in place here. We were able to agree decades ago to resist these social pathways to smoking and yet in 2015 we appear timid in the face of a new pathway. It would appear that our communities understand this too. They know that e-cigarettes are, in fact, just another type of cigarette and they want them regulated as cigarettes. This is reflected in the finding of a Newspoll survey released on 15 February this year, which clearly showed public support for the equal treatment of e-cigarettes and cigarettes. The survey, which was commissioned by the Heart Foundation and conducted on residents of New South Wales over January and February, found that 87 per cent of people had heard of e-cigarettes, 80 per cent supported a ban on sales to children, and 70 per cent wanted the same restrictions applied to e-cigarettes as exist for smoking in public places.

I understand that this is a rapidly emerging product and I accept that at this stage we have limited data on its long-term effects. Given what we know about tobacco use and tobacco marketing, surely in this case the House should apply the precautionary principle—in relation to any product that can be marketed as a cigarette we apply the existing protections and then debate the issues. The Government's current proposal simply does not go far enough. The Government has not adopted the precautionary principle—something that I would have expected from conservative leaders. It seems clear to me that our communities are, at the very least, circumspect about e-cigarettes and are looking to the Government to scrutinise their use. They want the level of scrutiny and protection that has been proposed by Labor. I fully support Labor's amendments to the bill and commend them to the House.

**The Hon. Dr PETER PHELPS** [3.47 p.m.]: I support the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015, but with a faint heart. I understand that it is important to send a symbolic message to people under 18 that they should not smoke e-cigarettes. After all, look how well the prohibition on ordinary tobacco has done in keeping cigarettes out of the hands of under 18s; and similarly the prohibition on marijuana has done a 100 per cent effective job in preventing under 18s from getting hold of marijuana! I put this legislation in precisely the same category as those other pieces of legislation where we "send a message" but really cannot expect to de-program people through prohibitionist legislation.

I am concerned that this is the thin end of the wedge and an exacerbation of the nanny statism that we see in Australian society today. I am not a smoker; I do not smoke marijuana or tobacco and I do not vape. I have no skin in the game in regard to this matter from a personal point of view. However, I do have skin in the game in relation to the imposition of the State's views on individuals' bodies. I am opposed to the view that one's body belongs to the State and that the State has a right to determine how it operates. I would suggest that those opposite, who often like to speak about the State's intervention in various activities in relation to their body, such as women's reproductive rights, should consider deeply the idea that one's body belongs to the State being inscribed in legislation such as we see with various prohibitionist arguments. It is revealing where this e-cigarette debate is going. I quote none other than the Policy and Advocacy Director of the Queensland Cancer Council who said in relation to e-cigarettes:

This was a problem we did not have a number of years ago. It is a real frustration for those of us working in public health because it wasn't even on the horizon a number of years back. It is something we are just better off without.

That says a lot about the mentality of the anti-smoking and anti e-cigarette crusade. I ask members to consider the following scenarios. Say for a moment you are deeply concerned about the effect of smoking on health and you have spent your whole career trying to help people give up smoking. You dream of a smoke-free world, but it is a struggle. Smoking rates tend to be on the decline in wealthy countries, but they are falling slowly. Globally there are more people smoking than ever before and there will be more people smoking tomorrow. No matter how many bans are introduced, a large minority of adults continue to smoke. Tax rises tend to have some effect on smoking prevalence but, although we would never say so openly, we are aware that taxes are a major burden on the poor and are fuelling a large and growing black market. What is more, nearly everything has been tried.

All the reasonable stuff—health warnings, anti-smoking ads, banning sales to minors, plain packaging, horrific packaging—has been introduced. Even the more extreme measures on the list have been mostly ticked off, which is why we have had to spend the last few years scraping the bottom of the barrel with the silly plain packaging campaign. What comes next? It has to be a prohibition of some sort—and we know that will not work. Many years ago it seemed that nicotine patches and gum might offer a solution, but it has become clear that smokers do not really like them and their efficacy as stop-smoking aids is negligible.

Then, out of nowhere, a product falls into our laps that smokers actually like and which helps smokers to quit. Even smokers who previously had no intention of quitting find themselves switching to this product. There is

no evidence that it causes cancer or heart disease and it does not create an odour that non-smokers find objectionable. We cannot believe our luck. It is the kind of product that people such as Michael Russell had hoped to discover in the 1980s—a device that delivers nicotine in a satisfying way without delivering the smoke and the toxins. You would say, "At last. This changes everything. What an opportunity." That is scenario number one.

Think about scenario number two. You are a journeyman public health advocate, picking up a nice steady wage from the government every month. You hold lots of meetings and attend lots of conferences. You and your colleagues had developed a plan of incremental prohibition in the early 1980s and it was all mapped out. "The plan" was to ban tobacco advertising and then ban smoking in as many places as possible. Then taxes on tobacco would be raised until it became unaffordable for people on low and median incomes. Other ideas such as display bans, graphic warnings, banning menthol cigarettes and plain packaging could be incorporated if you could convince enough gullible politicians that "something should be done". These policies were the something that was needed.

"The plan" would be to attack what you considered was the source of the problem, the tobacco industry, with plain packaging, windfall taxes, standardised cigarettes, or whatever. Gradually you would beat down smokers and the industry until they were so unpopular that you could push for the final goal: extreme prohibition. Within 20 years—it was always 20 years away; in 20 years X will happen—the tobacco industry would be outlawed and there would be no more smoking. In the meantime, there was good money to be made from research grants to prove that the various policies in "the plan" would work.

Then something comes along that was not expected, a new product that gives smokers a way to enjoy nicotine without the health risks of smoking cigarettes. Neither you nor the government came up with the idea. It came from, horror of horrors, the private sector; and private businesses start making money out of it. Worse still, after a few years of monitoring the market, the tobacco industry realises which way the winds are heading, buys a few companies and now makes money out of it. Lots of people are giving up smoking as a result, but not in the way that was part of "the plan", not in the way that was dictated by government bureaucrats, and not in the way that was dictated by public health busybodies.

Where does that leave you? What will become of the public health professionals and all their peer-reviewed studies? What about the end game? What about the problem? So you bite your nails and say exactly what the head of the Queensland Cancer Council said, "This was a problem we did not have a number of years ago. It is a real frustration for those of us working in public health because it was not even on the horizon a number of years back." You then pour yourself a glass of organic skim milk, slump into your armchair and say, "It is something we are just better off without."

A number of assertions have been made this afternoon. One of those is about the costs of smoking. It is a common argument around the world that various unhealthy behaviours increase the cost to the healthcare system. Thus, those unhealthy behaviours should be taxed more heavily so as to pay for the costs to the health system. The only problem with this argument is that it is gibbering nonsense. Unhealthy behaviours actually reduce healthcare costs. If we are to accept the initial logic, then we should subsidise them, not tax them. We see it here in Australia in relation to smoking, alcohol and obesity. Rarely a week goes by without another report about how much this or that activity costs the health system and thus taxes should be raised, prohibitions should be introduced or regulations should be added. It even happens in the United States, with various people calling for taxes on sugar, calories, soft drink and junk food. There is no doubt that these unhealthy behaviours bear costs; that is not an issue. The major cost, of course, is to the imbiber, the smoker, or the lard bucket, in the form of a shorter life span.

However, it is pretty much given in anything even approximating a free or liberal society that consenting adults must be left to make their own cost-benefit trade-offs. What about the costs to the healthcare systems, I hear you ask. The clue is in that shortened life span. Certainly there are costs to treating diseases brought on by too much booze, tobacco or food, but there are costs to treating all diseases, all modes and methods by which we reach that undoubted destination, the grave. The question is: Are the costs of treating the illnesses and deaths brought on by those three indulgences higher or lower than the costs of treating those who live healthily but inevitably die? It could be argued either way. Alzheimer's costs more to manage than does lung cancer; the treatment of aged, cracked hips related to osteoporosis costs more or less the same as managing livers fried from excessive alcohol consumption. We need to tot up the figures. Fortunately, that has been done in Europe. I quote:

Obesity is a major cause of morbidity and mortality and is associated with high medical expenditures. It has been suggested that obesity prevention could result in cost savings. The objective of this study was to estimate the annual lifetime medical costs attributable to obesity, to compare those to similar costs attributable to smoking and to discuss the implication for prevention.

The summary conclusion states:

Although effective obesity prevention leads to a decrease in costs of obesity-related diseases, this decrease is offset by cost increases to diseases unrelated to obesity in life years gained. Obesity prevention may be an important and cost-effective way of improving public health, but it is not a cure for increasing health expenditures.

The numbers in that report make for fascinating reading. The lifetime medical costs for a 20-year-old were €281,000 for a healthy person, €250,000 for an obese person and €220,000 for smokers. There are excellent arguments in favour of taxing in order to reduce the occurrence of smoking, excessive boozing and obesity. We humans are subject to hyperbolic discounting, not taking full account of long-distance future costs for current pleasures. Sometimes those running the public health system really do know more than us, and there are externalities associated with those behaviours. But the argument we cannot use is that these behaviours increase the cost of health care. The reason we cannot use this argument is that it is simply not true. Those who die young through bad behaviours actually save money for the healthcare system. If we are to accept the argument about taxes and the cost of health care, then we should admit that smokers, drinkers and over-eaters actually pay more than their fair share in tax for their healthcare costs. I think members will agree that we do not get told about these sorts of things.

I turn now to a general point that I have made previously about nanny statism: It is not the job of government to tell people how to live their lives. The irony of this situation is made clear by the participation of The Greens in this debate. The Greens lament the use of alcohol and tobacco, and call for its increased regulation and higher taxes, but are strangely silent on their preferred delivery method for marijuana. The Greens are moving towards a prohibitionist regime for alcohol and tobacco yet an increasingly free regime for the use of marijuana. I would be delighted to hear how The Greens can possibly rationalise that set of contradictions in a reasonable argument; they cannot. The Greens are picking winners and losers.

The Greens look at the alcohol industry and say, "Big alcohol is bad; therefore, we should oppose it." They look at the tobacco industry and say, "Big tobacco is terrible; it is run by people who want to make money so we will oppose it. But marijuana is run by small, independent growers on the North Coast of New South Wales so we are happy to support them." The moment The Greens oppose marijuana decriminalisation will be the moment British American Tobacco decides to get involved in marijuana cropping and production. That will be exactly the moment when they will suddenly have this revelatory vision that they must oppose marijuana decriminalisation—namely, the moment that an industry and profit can be made out of it.

Finally, I would like to list 10 health tips for young people that I have come across, which I am sure will be completely familiar to those who have children in the school system. The tips are as follows: Always keep yourself clean and exercise your body—light, air and water can help you with this. Look after your teeth—strong and healthy teeth are a source of pride. Eat plenty of raw fruit, uncooked greens and vegetables, first washing them thoroughly in clean water—fruit contains valuable nutrients which cooking eliminates. Drink fruit juice and leave coffee to the coffee addicts—you do not need it. Shun alcohol and nicotine—they are poisons which impair your development and capacity to work. Take physical exercise—it will make you healthy and hardy. Sleep at least nine hours every night. Practice first aid for use in accidents and all your activities are governed by this slogan: It is your duty to be healthy. Does that sound particularly unreasonable?

**The Hon. Shaoquett Moselmane:** No.

**The Hon. Dr PETER PHELPS:** No, it does not. Do members know where it comes from? It comes from the 10 commandments issued by the Reich physician to the Hitler Youth in 1939. It was predicated by rule number one: "Your body belongs to the nation, to which you owe your existence, and you are responsible for your body." That is the mantra of health totalitarians everywhere.

**The Hon. SHAOQUETT MOSELMANE** [4.03 p.m.]: I speak in debate on the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 which has as its object is to amend the Public Health (Tobacco) Act 2008 to prohibit the sale of cigarettes and e-cigarette accessories to persons under the age of 18 years. E-cigarettes are rapidly gaining popularity amongst those in the community who choose to smoke but it is still a matter of conjecture as to whether these battery-powered vaporisers do more harm than good. Some argue that the cigarettes are a good alternative to smoking cigarettes as no smoke is being inhaled into the body or the lungs and mouth; rather, users are inhaling a vapour and are not introducing tar into their system. Others argue that e-cigarettes normalise the concept and feeling of smoking and will encourage more people to smoke.

Restricting the sale of e-cigarettes to minors is a no-brainer. Indeed, there is no valid reason why minors should be allowed to smoke vaporisers if there is even the slightest chance—and I say there is—that it



could lead to fully blown cigarette usage down the track. This bill does not go far enough. The Labor Opposition advocates that a stronger legislative framework is needed to protect the community. As well as a ban on the sale of e-cigarettes to minors, Labor wants to restrict the use of vaporisers and e-cigarettes in enclosed spaces in restaurants, bars and hotels, at bus stops, on public transport and in other non-smoking areas, and to bring the places where e-cigarettes can be used in line with current laws for cigarettes, cigars and argilleh—the hubble-bubble pipe. Currently proprietors of premises of bars and hotels decide whether vaporising is permitted on their premises on a case-by-case basis. The amendments foreshadowed by Labor will create uniformity across the State and bring surety to non-smokers as to where people can use cigarettes or vaporisers.

Labor is also arguing for restrictions on the advertising, promotion and display of e-cigarettes at retail outlets, similar to cigarettes and tobacco products being kept out of sight at supermarkets, service stations, newsagents and other similar retail outlets. Currently vaporisers can be found on the counter of any convenience store in plain view of children and minors. I take this opportunity to inform the House that one of my staff members recently purchased the e-cigarette I am holding for \$3. It was not covered or hidden and it was available for purchase by children and minors. For obvious reasons Labor does not want to promote smoking, particularly by children and minors.

This bill is too weak. It is not strong enough to meet the expectations of members of the public who understandably are conscious of their health and the risks associated with smoking. The main game is to reduce the number of smoking-related deaths and illnesses. Banning the sale of e-cigarettes to minors simply does not go far enough. Whilst smoking an e-cigarette may not have the same detrimental effect as smoking generally, the risk of normalising the act of smoking, particularly to impressionable teenagers and adolescents, is sufficient for Labor to act. Each year smoking accounts for around 5,200 deaths and 44,000 hospitalisations and is the leading cause of preventable disease and death in New South Wales. The Baird Government should be doing all that it can to curb this. Labor has a much more comprehensive plan. Indeed, the Heart Foundation has endorsed the bill but has asked the Government and the Minister for Health to do more.

E-cigarettes are made in sweet and fruity flavours, which appeal to the younger demographic. I am reminded of the chocolate made to look like a cigarette, which has now been banned. However, the same marketing concept exists with e-cigarettes. Statistics reveal that 7.5 per cent of children in New South Wales smoke—that is 7.5 per cent too many. We can do much better than that. It is terrible to see children and minors smoking at bus stops, train stations or outside shopping centres.

Not only is it bad for their health, and the health of all those around them through passive smoking; it also gives a perception of criminality, just like graffiti. This affects local economies by scaring off potential patrons. While the long-term health risks associated with e-cigarettes are yet to be determined, the biggest risk associated with them is as an entry point to cigarette smoking. With 5,200 deaths and 44,000 smoking-related hospitalisations per year, we as legislators must continue to be vigilant in protecting the community from the dangers of smoking. As my colleague the Hon. Walt Secord stated earlier in debate, the Opposition does not oppose the bill but does propose amendments to strengthen the legislation and bring the use and sale of e-cigarettes into line with current smoking laws.

**Reverend the Hon. FRED NILE** [4.10 p.m.]: On behalf of the Christian Democratic Party I speak in support of the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. I support the measures outlined in this bill to ban the sale of e-cigarettes and the associated accessories to minors. Young people continue to be the target audience for e-cigarettes. This is why it is important that this legislation is passed today. Who is behind e-cigarettes? Which companies are promoting and selling e-cigarettes?

**The Hon. Walt Secord:** Big tobacco.

**Reverend the Hon. FRED NILE:** The Hon. Walt Secord should not jump the gun; I am giving this speech. Are the companies promoting and selling e-cigarettes linked to tobacco companies? Is there some mutual agreement to use e-cigarettes as a method of promoting cigarette smoking—training young people in the practice of smoking e-cigarettes so they then graduate to the real thing? I believe that could be the strategy that is occurring here. We do not often see such a rapid explosion in a retail product as that which we have seen with e-cigarettes all over the world, particularly in the United States but now also in Australia. E-cigarettes came along after the Parliament had passed laws to control tobacco use in New South Wales. When those laws were passed, e-cigarettes were not present in our State. So our tobacco laws did not cover e-cigarettes and do not currently prohibit the sale of e-cigarettes to minors.

The first provision in this legislation will make it an offence to sell e-cigarettes and related accessories to a person less than 18 years of age unless it is an approved product. Some might argue that we should prohibit this product altogether. But is that to jump the gun? Is it safe for someone who is 19 years of age to smoke e-cigarettes? Unfortunately, electronic cigarettes often contain nicotine even when they are not labelled as such. This poses a significant health risk for those using e-cigarettes even though they are marked as a healthy or safe alternative to smoking tobacco cigarettes. They are being marketed as a safe alternative. But they do encourage the habit of smoking and prepare a person to move on to smoking the real thing—tobacco.

This bill, which the Christian Democratic Party supports, seeks to ensure that only approved products are available for sale. This means they must be a registered therapeutic good or a device or accessory that is supplied under licence or authority under the Poisons and Therapeutic Goods Act 1966. However, it will protect proven stop-smoking aids and ensure they are not affected by the ban on e-cigarettes. We have to separate those two areas; we need to have genuine approaches to stopping smoking—for example, patches and so on—which have been successful in many cases.

Despite the risk of prosecution, e-cigarettes containing nicotine continue to be sold. This is why it is important to ban the sale of non-approved products and establish a broad definition of e-cigarettes, as this bill does. The bill stipulates this will include any capture devices designed to generate or release an aerosol or vapour by electronic means for inhalation in a similar manner to the inhalation of smoke from a tobacco product. The prevalence of e-cigarettes is particularly concerning as e-cigarettes simply replace one bad habit with another. In fact, smoking is the leading cause of preventable death in Australia. We all know the health issues that smoking can cause. The research is damning and irrefutable. That is why I have been a ferocious campaigner against tobacco products, as other members have already noted.

Some Government members have given the impression that the Government introduced the bills to prohibit tobacco advertising and smoking in public places. In fact, those bills were Christian Democratic Party bills introduced by me. The prohibition of tobacco advertising bill was in fact strongly opposed by the Liberal Party and The Nationals. It was only when the Coalition realised that those supporting the bill had the numbers that it changed its policy—it would not be caught voting against the legislation. It is very important that this House consistently protects the health of citizens, especially minors. I disagree with the entire contribution of the Hon. Dr Peter Phelps. He is very concerned about what he thinks is the greatest danger facing our society—that is, being regarded as a nanny State. If he had his way and he was the leader of the Government, we would have no legislation protecting the health of the people of this State. He would have total deregulation. His philosophy is most dangerous.

**The Hon. Trevor Khan:** That is why he is the Whip.

**The Hon. Dr Peter Phelps:** That would explain my lack of promotion to the Ministry.

**Reverend the Hon. FRED NILE:** And I congratulate the Government on its far-sightedness in that regard.

**The Hon. Dr Peter Phelps:** The Premier is a very wise man

**Reverend the Hon. FRED NILE:** He should never let that happen. I support all the work of the Cancer Council, the Heart Foundation and others. They are very concerned about the development of e-cigarettes. As we know, smoking kills half of all people who continue to smoke, at least one in four of those people die between the ages of 35 and 69, a smoker who does not quit loses on average 10 years of his or her life, and smoking is responsible for about 85 per cent of lung cancers.

I have an interest in this issue because my father died of lung cancer at the age of 72. He started smoking in England when he was a young boy, aged 13. He continued smoking all his life and was totally addicted. It distressed me that that habit took his life and he died earlier than he should have. So I am ferocious in my approach to eliminating the danger to health presented by smoking and e-cigarettes. Smoking increases the risk of heart attack two to six times, and smokers are one and a half to two times more likely to have a stroke. So smoking is a great danger to people's health.

During a parliamentary committee inquiry into one of my anti-smoking bills I visited hospitals and went to the wards to visit patients who were barely surviving the effects of smoking. These men were in their

seventies. They had lung cancer. The next day the specialist rang me and told me that some of the men we had spoken to had passed away during the night. That those witnesses were no longer alive brought home the reality of the fatal results of smoking.

As I said, I am pleased to support the Cancer Council in all its efforts. We know that the longer a person has a habit the harder it is to break. That is the danger of e-cigarettes. People I know who are addicted to smoking say that there are many factors to their addiction. One is that they are used to having a cigarette in their hands when they are with people. The e-cigarette will be the thing in their hand that will reinforce the temptation to return to smoking in due course.

We cannot find any evidence that e-cigarettes stop people from smoking. They say that marijuana is the gateway to heroin. Perhaps the e-cigarette will turn out to be gateway for people under 18 taking up smoking. They could be conditioned by the use of e-cigarettes. That is why the Christian Democratic Party will support the amendments proposed by the Opposition and Mr Jeremy Buckingham. We do not want to compromise on this issue. New South Wales has been the leader in tobacco control. We want it to now be the leader in controlling e-cigarettes and set the pattern for other States. As we know, 31 May is World No Tobacco Day. It would be great to have this bill and its amendments passed by then so that we have strong laws in New South Wales. We support the bill and we will support the amendments.

**The Hon. DANIEL MOOKHEY** [4.21 p.m.]: In time I will turn to the objectives of the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 but it would be remiss of me not to first make some considered reflections on the contribution of the Government Whip and his ability to bring a debate to life. I am new to this Chamber. In fact, this is only the third time I have had an opportunity to contribute to debate. I confess that the Government Whip's reputation for his steadfast devotion to libertarian principles precedes him. I was warned many a time of his unparalleled ability to distort the principles of libertarianism to their most illogical conclusion. In his contribution he took those principles and managed to attack—

**The Hon. Trevor Khan:** Point of order: My point of order is relevance. The member should speak to the bill, not engage in a character analysis of the Government Whip. Mr Deputy-President, I ask that you bring him back to the long title of the bill—although I might agree with everything he says.

**Reverend the Hon. Fred Nile:** To the point of order: The member is being relevant because in debate on a bill a member may refer to a contribution made by a previous speaker. That is all that the member is doing.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! For the benefit of new members, when they are referring to other members across the Chamber it is the right approach to call them as a group, whatever it is. In this case, as Reverend the Hon. Fred Nile has mentioned, the member had made a previous reference to the Government Whip and his contribution. There is no point of order.

**The Hon. DANIEL MOOKHEY:** I was about to make the point that the Government Whip took his libertarian principles and used them to attack the head of the Cancer Council of Queensland. In doing so he took the side of Imperial and big tobacco. It is a bold politician who, while supporting his Government's legislation, feels he ought to express his support in a manner that upholds the interests of big tobacco. Indeed, he concluded his contribution by invoking the Hitler Youth pledge. I am looking forward to the Minister's speech in reply to find out whether he will accept the criticism of the Government Whip that his legislation is indeed a form of nanny statism. I am looking forward to finding out whether he will welcome the Government Whip's decision to associate his Government with the Hitler Youth.

**The Hon. Dr Peter Phelps:** Point of order: I indicated that I will be supporting the bill. I raised my concerns simply about prospective changes that might be made in relation to e-cigarettes.

**The Hon. Shaoquett Moselmane:** To the point of order: Mr Deputy-President, you ruled earlier that members are given wide latitude in their contributions.

**The Hon. Dr Peter Phelps:** To the point of order: Members are not allowed to mislead the House about what other members said in their contributions.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! The member cannot prophesy how the Government Whip will comply with the Government's bill. I ask him to confine his remarks to the bill before the House.

**The Hon. DANIEL MOOKHEY:** My point was that I am looking forward to the Minister's speech in reply. I am sure the Minister will set out his response to the Government Whip, decide whether his Government is indeed following the precepts of the Hitler Youth and decide whether it is associated with the nanny statism that the Government Whip so denounces.

I turn now to the objective of the bill, which is to amend the Public Health (Tobacco) Act 2008 to prohibit the sale of e-cigarettes and e-cigarette accessories to persons who are under the age of 18 years. Of course that is a most welcome objective. It initiates the process of adapting the State's laws to account for the product innovation and development process underway in the tobacco industry. E-cigarettes are reflective of a long-held strategy of big tobacco. It understands the extent to which the battle over cigarette and tobacco use is a battle about normative behaviour. Big tobacco understands that in emphasising flavour and depicting the use of e-cigarettes as a halfway house between not being a cigarette but not being abstention either it is able to market it to appeal to its key target market—kids and minors. That is reflective of the strategy that big tobacco has had for a long time: to make this type of product innovation and development the first rung on a ladder of escalation that results in permanent addiction to tobacco. Because of that intention of big tobacco this Parliament must act.

While developing my notes for this debate I grabbed one of my favourite books from my bookshelf. Published in 1988, *Barbarians At the Gate: The Fall of RJR Nabisco* is a wonderful tale about the battle for control of RJR Nabisco, which was the first company to launch an investment in e-cigarettes and vaporised delivery systems. Other members who have spoken in this debate seemed to suggest that e-cigarettes are a recent development. In fact, they have represented a strategy that has its origins in the business plans of the 1980s. At that time e-cigarettes were developed and attracted strong investment because they were designed as a substitute good for when the use of tobacco cigarettes declined. E-cigarettes would keep people using tobacco and suggest that tobacco ought to remain as normative behaviour in our society. That is the contest in which we are now joined.

The bill is most welcome because it applies fines and deterrents for those who would sell e-cigarette products and it imposes high pecuniary penalties on those who would otherwise breach the law. Although necessary, that strategy is certainly not sufficient. The type of strategy that we know to work is the type that the Labor Party has traditionally initiated. I thank Mr Jeremy Buckingham for listing Labor's record in this area during his contribution. I welcome his desire to be associated with the governments of people such as Neville Wran, Bob Carr, Bob Hawke and Kevin Rudd. They are the governments that are responsible for plain packaging legislation and Labor is the party responsible for ensuring that such legislation could survive the investor settlement disputes that so exercised my friends in The Greens. The strategy always adopted by Labor in this type of debate is to ensure that, culturally, the use of tobacco is never encouraged. In fact, the position adopted by Labor is unambiguous: Smoking is the wrong thing to do.

I congratulate my good friend the Hon. Walt Secord, and of course welcome the support of the crossbench, for amendments that will ensure that e-cigarettes are treated as identical to tobacco. The amendments will align New South Wales laws with the laws of Queensland and will ensure that no public space will be able to be used by consumers of e-cigarettes. I believe a similar amendment is being pursued by The Greens, and I congratulate The Greens for those amendments also.

The amendments will place tobacco on a downward trajectory by reflecting a core strategy that is known to work: the idea that smoking is not a cultural practice; smoking does not necessarily involve the rights of the individual but rather the way in which that right is exercised in our society; the use of tobacco is not an encouraged behaviour; smoking has deleterious effects on people's health; smoking imposes tremendous externalities upon those who do not smoke but inhabit places inhabited by people who do smoke; and smoking imposes a huge cost on our health system, which cannot be saved by simply saying that people who smoke tobacco tend to die younger, which saves money in the long term. This bill is a welcome step towards modernisation of our laws, but more needs to be done. The amendments ought to be accepted by the Government and the bill should then pass.

**The Hon. COURTNEY HOUSSOS** [4.31 p.m.]: My contribution in support of the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015 will be brief. I commend the measured and sensible work of the shadow Minister for Health, the Hon. Walt Secord, in relation to this issue. This bill represents an important step in continuing the public policy work done by both sides of the House and indeed in the other place over many years. Currently the sale of electronic cigarettes to minors is not prohibited. There is plenty of evidence to suggest that young people, in particular, are drawn to those products, which can come in a variety of flavours

that include chocolate, fruit, lolly and Red Bull flavours. The success of public health campaigns in this State and throughout the country that have dramatically reduced the incidence of smoking, particularly among young people, cannot be put at risk by allowing new generations of people to become addicted to nicotine and tobacco through imitation products. Indeed the Heart Foundation has stated:

[Its] immediate and urgent concern is the growing use of e-cigarettes for recreational purposes by children and young non-smokers.

Under this new legislation it will be an offence to sell electronic cigarettes, or their related accessories, to a person under the age of 18, which will ensure that the progress our community has made in relation to smoking is secured and maintained. The devices are often deceptive in their claims to reduce reliance on conventional cigarette smoking and nicotine. Testing conducted by NSW Health found that 70 per cent of sampled e-liquids contained high levels of nicotine, despite it currently being unlawful for electronic cigarettes to contain any nicotine whatsoever and despite consumers often being unaware that the product they are ingesting contains nicotine.

Ensuring that children are not unknowingly subjected to addictive drugs is my main concern. This bill goes some way towards addressing the issue of supply to people under the age of 18. Of course, I think we should go further with this legislation. That is why I will be supporting the shadow Minister's foreshadowed amendments and would welcome support from other members. Although the Government has accepted that e-cigarettes should be banned in cars, there are other enclosed spaces—as illustrated during question time today—that to my mind also necessarily call for restrictions, such as childcare centres, schools, aged care facilities, just to name a few places where, under the current bill, e-cigarettes could legally continue to be smoked. Earlier the Government Whip indicated, through his interjections, that banning should be left to each organisation, institution or building manager to decide. He says that we should avoid supposed big government. Perhaps he would rather leave it to kindergarten teachers to formulate the rules and then enforce them. I do not agree.

We know that first generation Australians and ethnic communities have higher rates of smoking. We should be doing everything we can to reduce the prevalence of smoking within those groups because there is a cultural benefit, a community benefit and an economic benefit to reducing smoking in those communities, just as there are those benefits in the broader community. Restriction of access to electronic cigarettes is an important measure to achieve that reduction. I note the amendments that have been circulated. I am pleased to support this bill as a first step in dealing with the proper regulation of electronic cigarettes.

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [4.35 p.m.], in reply: I thank all members for their support for the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015, which will amend the Public Health (Tobacco) Act to ban the sale of e-cigarettes and e-cigarettes accessories to persons under the age of 18. A breach of the ban will be subject to the same maximum penalty as applies to the sale of tobacco products to a minor. In addition, the bill amends the Act to make it an offence to purchase e-cigarettes, including by using a vending machine, on behalf of a minor and will allow the police to confiscate e-cigarettes that are in the possession of minors in public places. The bill will make changes to the Public Health (Tobacco) Act to allow its provisions that apply to tobacco vending machines, such as limiting the location of vending machines and regulating how such machines are operated, to also apply to e-cigarettes vending machines.

We know that e-cigarettes are not a product that children and young people should be using. It is important to act now to protect children and young people from having access to those products. The New South Wales Government has made great strides towards reducing smoking rates and the uptake of smoking by young people. As I indicated earlier, in 2012 the smoking rate among secondary school students was at an all-time low at 7.5 per cent. This impressive achievement demonstrates the effectiveness of our tobacco control efforts in New South Wales. Of course, we need to protect those gains at all costs. The bill addresses the risk of any increase in the rates of children smoking in New South Wales. It will ensure that e-cigarettes will not be able to be sold to, or on behalf of, a minor. The Ministry for Health will continue to monitor the evidence regarding potential benefits and harms associated with e-cigarettes and notes that further regulation may be required in the future. The Hon. Walt Secord cited Dr Chapman on a number of occasions. I also cite Dr Chapman:

A recent systematic review of the evidence on the health risk profile of ECs concluded:

Due to the many methodological problems, severe conflicts of interest, the relatively few and often small studies, the inconsistencies and contradictions in results, and the lack of long-term follow-up, no firm conclusions can be drawn on the safety of ECs [electronic cigarettes] ...

Should the many hopes be realised that ECs do indeed pose minimal health risks and significantly assist in smoking cessation, future policy development in Australia will need to carefully consider how adult smokers wanting access to these products can best be facilitated without reversing the decades-long decline in youth smoking.

There is no greater advocate against smoking than the Minister for Health. It is evident from the actions of the Minister for Health over the past four years that she takes all appropriate steps to reduce smoking, in particular smoking as it affects children and young people as well as the effects of secondary smoking. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

**Consideration in Committee set down as an order of the day for a later hour.**

## **PAYROLL TAX REBATE SCHEME (JOBS ACTION PLAN) AMENDMENT (EXTENSION) BILL 2015**

### **Second Reading**

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.39 p.m.], on behalf of the Hon. Duncan Gay:  
I move:

That this bill be now read a second time.

The Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015 delivers on the Government's election commitment to encourage job creation and further strengthen the New South Wales economy. The bill provides for an amendment to the Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011 to extend the closure date of the Jobs Action Plan by four years, from 30 June 2015 to 30 June 2019. When this Government was elected in 2011 we made a commitment to create 100,000 jobs in New South Wales. A key platform in the delivery of this objective was the Jobs Action Plan scheme. The scheme provides an incentive for businesses to employ new workers and encourages employers to expand their operations in New South Wales.

Since this Government came to office around 188,000 jobs have been created. Data on the Jobs Action Plan shows that to the end of April 2015 more than 101,000 Jobs Action Plan registrations have been received. Rebates paid to date total around \$93 million. In the metropolitan area, the local government area [LGA] of Sydney records the largest number of registrations, at 21,814. This is followed by North Sydney, at 5,911; and Blacktown, at 3,297. I am pleased to say that out of the top 10 metropolitan LGAs, four LGAs are from Western Sydney. They include Blacktown, with 3,297; Parramatta, with 2,729; Auburn, with 2,514; and Liverpool, with 2,254. In regional New South Wales the top LGAs include Lake Macquarie, with 1,708; Maitland, with 1,400; Wagga Wagga, with more than 1,000; and Orange, with 821.

The Jobs Action Plan has assisted in exceeding our target of 100,000 jobs and delivering strong jobs growth to New South Wales. This plan has truly had a positive result. Given the success of the existing Jobs Action Plan the Government committed during the election campaign to extend the scheme for a further four years, to 30 June 2019. Extension of the scheme means employers can continue to hire additional staff and receive the benefits of the current Jobs Action Plan scheme. As members would be aware, under the scheme payroll tax liable employers can continue to apply for a \$5,000 payroll tax rebate for each additional full-time employee, with the rebate pro rata for part-time employees based on the number of hours worked compared with the standard working hours of full-time employees.

The rebate will still be paid in two payments, with \$2,000 paid on the first anniversary of the hire of the additional staff member and \$3,000 paid on the second anniversary of the hire of the additional staff. This bill recognises the difficult economic environment that many businesses are operating in and encourages employers to continue hiring additional employees. This bill demonstrates that the Coalition Government remains committed to making New South Wales the first place to do business and encouraging employers to expand their operation. I commend the bill to the House.

**The Hon. Dr PETER PHELPS** [4.44 p.m.]: It gives me a great deal of pleasure to contribute to debate on the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015. I have spoken many times in this House about the tax regime problems that face State governments of every variety in Australia. It is lamentable that we still require such a great proportion of our State budget to be supplied through payroll tax. I am sure all members will agree that payroll tax is a tax on jobs. It is a disincentive to employ people in firms above a certain level. I think all members of the House, whatever their political persuasion might be, would

consider that to be detrimental. The good thing about this Government is that we have tried to do something about it. In a perfect world, payroll tax would be abolished. However, through the rebate scheme we have tried to minimise the negative impact on businesses seeking to employ people over an extended period, especially in those areas that are most needed.

I have spoken previously about the tax imbalance—the so-called "vertical fiscal imbalance"—that faces State governments. From 1943 onwards, when the then Federal Labor Government decided to withhold—or, actually, steal—the income-taxing powers from the States, we faced a situation where we continually require the supplementation of State expenditures through revenues that are essentially from the Government. We hang out the begging bowl and say, "Chuck a few alms our way." That is unfortunately the way State governments have come to rely on financing in Australia. The problem will not be solved unless there is a resolution on the part of the Federal Government to give back some of its powers to the States to allow them to move beyond what they currently are, and that is mendicants dependent upon the largesse of the Federal Government.

Certain proposals have come forward, including the Productivity Commission's proposal for an across-the-board 10 per cent reduction in Federal income tax, thereby allowing the States to levy an amount up to 10 per cent for their own revenue raising purposes. This is the sort of progressive income tax regime that even members opposite would agree would be quite a useful situation to have in the New South Wales context. I am very supportive of this bill. The extension to the plan is well deserved. It is one that I fully support and I am sure all members of this House will fully support.

**The Hon. SOPHIE COTSIS** [4.47 p.m.]: I lead the debate for the Opposition on the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015. I state at the outset that the Opposition will not support this bill. Labor supports jobs creation and payroll tax relief. However, this bill merely continues a failed scheme which does nothing to create jobs or support small business. The Opposition supported the original bill establishing the scheme in 2011. While we expressed some reservations regarding that bill, we were prepared to support the Government's initiative in a spirit of good faith—and we did.

Labor continued to support the subsequent amendments which the Government made to this scheme during the last term of government. However, our patience has run out. When the scheme was established in 2011 the Government announced it would provide a rebate to the first 100,000 jobs created over a two-year period. The Government said that this commitment would be delivered at a cost of \$400 million. Throughout the last term of government, information about the scheme showed that it was failing to achieve its goals. By June 2013 only about 20,000 applications had been received. By the end of January 2015 only about 40,000 had been received.

**The Hon. Dr Peter Phelps:** Only 40,000 jobs!

**The Hon. SOPHIE COTSIS:** But the Government said 100,000. That means that even though the Government legislated with the intention of paying 100,000 rebates in two years, after 2½ years only 41,000 applications had been received. In her second reading speech in the other place on 7 May 2015, the Treasurer announced that around 101 applications, to the value of \$93 million, had been received since the scheme was implemented four years ago. The woeful under-performance of this scheme has been confirmed by the New South Wales business community. In its submission to the 2011-12 New South Wales budget, the NSW Business Chamber said:

Feedback from our members has overwhelmingly indicated that the current scheme is ineffective and is not providing employers with any significant incentive to take on additional staff. We understand that take-up has been running at around 50 per cent of the expected rate; assuming this remains the case we estimate that closure of the scheme to new entrants from 1 July will free around \$310 million from the initial \$400 million commitment.

But, of course, the Government did not listen. The bill proposes a continuation of a failed scheme. Significantly, the scheme does not help most employers in New South Wales. Small business is the backbone of our State's economy and employs around 80 per cent of employees in New South Wales. However, this scheme does nothing to help support small business.

**The Hon. Trevor Khan:** Rubbish.

**The Hon. SOPHIE COTSIS:** It does not. Ninety per cent of businesses in New South Wales do not pay payroll tax. In New South Wales there are around 650,000 small businesses that do not pay payroll tax and will not be eligible for the rebate or any assistance at all. This scheme essentially benefits the top end of town at the expense of ordinary mums and dads across New South Wales who pour their lives into their own

small businesses. The scheme has failed to stimulate jobs growth. When the Liberal Party and The Nationals took office in 2011, the unemployment rate in New South Wales was 5.1 per cent. It is now more than 6 per cent. In some parts of the State it is at 16 per cent. Youth unemployment is much higher. At a time when government revenues are under pressure—given Tony Abbott's \$80 billion cuts to health and education funding—it makes little sense to continue a scheme whose take-up has been paltry, which is not supported by the business community, which does nothing for small business, and which has not delivered the benefits it promised.

Labor believes that if the Government were serious about creating jobs it would be better off to reverse its disastrous and savage cuts to TAFE, cuts which have made it harder for people across New South Wales to develop skills to gain employment or to start their own small businesses. The benefits of TAFE are tangible and well established. In contrast, the benefits the Government attributes to this scheme are illusory and refutable. The Opposition does not support the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015 and calls upon the Government to get serious about supporting job creation and small businesses in New South Wales.

**Dr JOHN KAYE** [4.52 p.m.]: New South Wales has a disgraceful level of unemployment—6.3 per cent and climbing. An unacceptable number of people are left out of the economy and their lives are being ruined by an absence of access to employment. This situation cannot be allowed to continue. The objective of creating jobs is a good one but the vehicle that we have before us in the House today is a bad vehicle. This is the third piece of legislation we have seen before this Parliament to try to resuscitate the Jobs Action Plan. It is clear that cutting payroll tax to large employers is not dinting unemployment. It is not working.

A sensible government would admit at this stage that this is a failed policy and would look at other ways of spending \$330 million. It would work towards genuine jobs creation and on genuinely restoring some hope to people, particularly to those who live in communities with high levels of socioeconomic disadvantage and long-term unemployment. A sensible government would assist regions around New South Wales that are genuinely suffering—regions such as the mid North Coast, western New South Wales and Western Sydney. These are regions where, for far too long, governments of both persuasions have turned their backs on families where dad and granddad, mum and grandmum, do not have a job and never have had a job. It is time to get serious about unemployment. I fail to see how promising to spend \$330 million but only spending \$93 million can be seen as a success. I fail to see how a scheme that was said to create 100,000 new jobs can be declared a success when, over its four-year life, it has only created 41,000 new jobs.

We cannot wait around while the Government tinkers yet again with this scheme. This Chamber should send the Government a very strong message by rejecting this legislation and saying, "Go back to the drawing board and accept that your scheme is about delivering favours for mates." The Government must spend the money in communities where there are high levels of unemployment and where it will have an impact on communities that are suffering badly under an economy which is rapidly becoming a two-speed economy. Parts of this State have unemployment rates as high as 16 and 18 per cent; other parts of the State have low unemployment rates. It is great for the parts of the State where unemployment is low, but for those areas that have high levels of unemployment a gross scheme such as this will not solve the problem. It delivers only to large corporations. Up to 90 per cent of businesses do not pay payroll tax. Only 10 per cent of businesses pay payroll tax. Therefore, the scheme works for only 10 per cent of businesses.

As I have said on a number of occasions when we have debated this legislation in this Chamber, nothing the Government has done addresses the problem of additionality. The economic problem of additionality is where governments provide benefits to encourage outcomes which would have happened anyway. In this case, largely all that is happening is that jobs that would otherwise have been created are being rewarded with a payroll tax cut. It makes no sense to squander \$93 million of public funds on large corporations—10 per cent of businesses only—to reward them for jobs that they were going to create anyway. It particularly makes no sense at a time of high unemployment.

Spending \$330 million on reducing unemployment is laudable but it is not enough. There needs to be a focus on Aboriginal communities and on communities that have high levels of inter-generational unemployment. The Government has set aside \$330 million but delivering it through an imperfect vehicle—proven to be imperfect with a track record of four years of failure—and to continue to push on with that is to show that this Government is not listening and is not concerned about the real problems but only concerned about delivering favours to its mates in large corporations.



During the election campaign The Greens announced a number of job creation packages, one of which was specifically focused on Aboriginal communities and on communities with high long-term unemployment. We showed that using local government as a vehicle to build infrastructure results in highly efficient expenditure that not only assists in repairing the roads, the rail and the other social infrastructure of those communities but also creates employment and training opportunities.

The second key feature of the O'Farrell and now Baird Government has been its sustained attack on TAFE. If this State is serious about addressing unemployment it will provide not just training opportunities but also education and training opportunities to the long-term unemployed. It is no use giving people a quantum of skills and saying, "Here, go and do this." What is needed in this State is to educate the long-term unemployed and to provide opportunities for them to engage in serious capacity, and not just improve their skills but to improve their understanding, their workplace flexibility and their social engagement. That can only be achieved by public sector vocational education and training.

**Mr Scot MacDonald:** Point of order: I understand wide latitude is granted at this stage, but the bill is about the Jobs Action Plan. It is not an opportunity to present an election manifesto about TAFE and other issues. I ask that the member be brought back to the relevance of the bill.

**Dr JOHN KAYE:** To the point of order: I am showing that there are other ways of spending \$330 million. My thesis on the bill is that continuing to allocate \$330 million to a failed plan is vastly inferior to spending that money on worthwhile activities, such as, investing the money on infrastructure through local government or in TAFE.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! The member is debating the point of order. There is no point of order.

**Dr JOHN KAYE:** This bill will devastate TAFE. Putting one-third of the vocational education training budget into the private market will allow that one-third to be used for profits. The Learning Management and Business Reform-based EBS package is a dysfunctional enrolment package that is being inflicted on TAFE. Despite being told it was dysfunctional, the Government's decision to use it shows it is hostile to TAFE and to solutions to long-term unemployment that would empower working Australians not only with skills but also with an understanding of their community.

It is clear that this legislation sinks the State deeper into a failed solution, and that is not efficient. The solution is vastly inferior to other ways that the \$330 million could be spent. The Greens argue that the State should be spending more than \$330 million on addressing unemployment. The key outcome for this State is low levels of unemployment. Every member of Parliament and every member of the community wants to see lower unemployment—except those who believe that higher levels of unemployment suppress wages. This legislation will not reduce unemployment. It is time for this Government to abandon the excuse that it is reducing unemployment when it delivers \$93 million to its friends in the boardrooms of the big corporations of this State. It is time for this Government to get serious about addressing long-term unemployment in rural and regional New South Wales, in western Sydney and around the State by investing in infrastructure through local councils. The TAFE system must be restored so that every cent we spend generates new jobs.

**The Hon. SCOTT FARLOW** [5.02 p.m.]: What a surprise, Labor and The Greens are joining together to increase tax burdens in New South Wales. Let us look at Labor's payroll tax record when it was in Government. In 2007 the payroll tax threshold in New South Wales was \$600,000. Now it is \$750,000. The payroll tax rate was 6 per cent when Labor was in Government. Now it is 4.5 per cent. With the introduction of this legislation, we find that the payroll tax rebate in New South Wales has created 188,000 jobs over the life of the Baird Government and the former O'Farrell Government.

**The Hon. Walt Secord:** You have made up that figure. You have just plucked it out of the air.

**The Hon. SCOTT FARLOW:** No, I have not. Opposition members pluck figures out of the air all the time. Since the Liberal-Nationals Government came to office in 2011, 188,000 jobs have been created.

**The Hon. John Ajaka:** Point of order: I cannot hear the member because of the continual interjections from members on the other side. I ask that the member be allowed to speak in silence.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! Members will cease interjecting, which is disorderly at all times.

**The Hon. SCOTT FARLOW:** In New South Wales 101,983 Jobs Action Plan registrations have been received. This plan is working because it is creating jobs. This plan is delivering for the people of New South Wales. The commitment that our Premier made at the campaign launch was that this Government would continue this scheme because it is working. It will allow 150,000 jobs to be created in this State, which was our commitment. In 2011 the Coalition Government committed to creating 100,000 jobs. To date, it has created 188,000 jobs. I am confident that this Government can create 150,000 jobs, or more, during this term of Government. This plan will help the Government deliver on its commitment.

Some concerns have been raised about small businesses. They are defined by the Australian Bureau of Statistics as businesses that hire fewer than 20 people. With a payroll tax threshold of \$750,000, it is hard to imagine that a small business hiring 19 or 20 people would not breach that threshold. This rebate will help small businesses in this State to create more jobs. Over the past four years 188,000 jobs have been created and 101,000 registrations have been received. This Government also has outlined that it will establish a \$2,000 small business employment incentive for small businesses that do not pay payroll tax. This Government is working to ensure that more jobs are created in New South Wales. This State has the second-lowest unemployment rate of any State across the nation. When Labor was in power, New South Wales was at the back of the pack at number eight. New South Wales is now number one. Two consecutive CommSec reports have shown that this State is number one. It is moving forward with the creation of more jobs and more economic opportunities.

Let us look at where these changes are being made and what this Government is delivering for the people of New South Wales. Registrations have been received from across New South Wales. Four of the 10 local government associations with the highest registrations have been in Western Sydney. That will drive more jobs to this growing population. Many rural and regional areas have significant registration numbers. In New South Wales, the top local government associations have been Lake Macquarie, Maitland, Wagga Wagga and Orange. Jobs have been created across New South Wales thanks to our rebate scheme. The scheme is working. It will ensure that the target of 150,000 jobs across New South Wales is achieved. This Government has already delivered 188,000 jobs since it was elected to Government in 2011 and I am confident that it will create 150,000 more.

Let us look at the impact on small business. The rebate is paid in two instalments and the changes that have been made will ensure that if a person becomes unemployed in the second year the payment will still be made. We are trying to create long-term employment. This Government is ensuring that small businesses take chances to create more employment. They will be rewarded with incentives. The Government wants New South Wales to remain at number one, not at number eight as it was when the Labor Party were in Government. It is no surprise that Labor is against payroll tax and reducing the burden on businesses in New South Wales. The Baird and O'Farrell governments have ensured that this State is number one again, and that is how it will continue.

**The Hon. ERNEST WONG** [5.10 p.m.]: I join my Labor colleagues in opposing the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015, which seeks to extend the Government's flawed and largely failed payroll tax rebate scheme. This was one of the first schemes passed by the Liberal Government. It resulted from an election thought-bubble of former Premier O'Farrell and former Deputy Premier Stoner that a payroll tax rebate scheme would create 100,000 new jobs in New South Wales. Interestingly, that carefully thought out modelling came to a neat round number. What were the chances? But I digress. In June 2011 the O'Farrell Government implemented the scheme. Four years down the track, with a new Premier, Deputy Premier and Treasurer, we are now being asked to renew the scheme. What about those 100,000 jobs? Did the Government get the figure right? How has the scheme travelled? The answer is, not too well. It certainly has not gone as well as the Liberals and The Nationals had promised.

The Government had proposed up to 100,000 grants in the first two years of the scheme, but by June 2013, two years later, roughly only 20,000 grants had been received. Various amendments to the scheme were hastily rammed through to try to tweak the scheme into success. While application numbers did slowly climb, they remained well short of the projections the Government had expected. It was certainly well short of the boon for jobs and investment that former Premier O'Farrell had promised. Why was that? It was obvious to anyone who understands small business that it was a failed design. The scheme relies on a rebate for payroll tax which is not paid by about 90 per cent of businesses in New South Wales, especially not by small businesses whose payrolls rarely reach the \$750,000 threshold for payroll tax. This means that small businesses—the creators of 80 per cent of our jobs—are completely unaffected by this scheme. In reality, the only beneficiary of this scheme was going to be big business. For a party that claims to be "the party of small business", this was a pretty big oversight.

What a contrast between Treasurer Berejiklian and her Federal counterpart who, for all his missteps—and there are many—at least seems to understand the definition of "small business". What a contrast between the Federal scheme, which cuts out at a turnover of \$2 million, and the State scheme, which only cuts in once business is most likely well over that level of turnover. While the Federal Government is crowing about "Tony's tradies", the New South Wales Government is going the extra mile for "Baird's board members". It is not only Labor that can see the flaws in this scheme. At the outset, the New South Wales Business Chamber described it as "ineffective and not providing employers with any significant incentive to take on additional staff".

But let me be fair. I can have a view, as can Labor and the New South Wales Business Chamber, but it is only our view. What really matters is the bottom line. Surely the bottom line of a government-funded employment scheme is that it reduces unemployment. Once again, the Government is on the wrong side of the data. Unemployment, which was at 5.1 per cent when this Government took office, is now at 6 per cent—and in some parts of the State it is at 16 per cent. By any measure, this is a flawed and failed scheme which provides handouts to big business while doing nothing for small business. This is a flawed and failed employment scheme that has endured a rise in unemployment. By any measure, it is a scheme best left to expire so that the Government can focus its efforts and funding on a better design.

As some people say, when one is flogging a dead horse the best strategy is to dismount. But the new Treasurer, rather than delivering new ideas of her own, wants to give the dead horse one more flogging. The new Treasurer, rather than developing employment generators of her own, with the policy levers and expertise of Treasury at her disposal, is asking this House to renew a flawed model that was cooked up in the heat of an election campaign. This is government at its laziest. Our communities deserve better. That is why Labor opposes the renewal of this flawed, failed and lazy use of public funds. I thank members for their attention.

**The Hon. GREG PEARCE** [5.14 p.m.]: I recall with great pleasure as the former Minister for Finance and Services introducing the Payroll Tax Rebate Scheme (Jobs Action Plan) Bill in 2011. I am proud to be part of a team that is in favour of both supporting jobs and businesses creating jobs. When this legislation was first introduced the Labor Party and The Greens did not vote against it—although Dr John Kaye made a turgid and contradictory speech at the time. At that time the Hon. Adam Searle—who is not presently in the Chamber but I am sure he is listening—led for the Opposition. He said:

We understand the Government has a mandate for the Payroll Tax Rebate Scheme (Jobs Action Plan) Bill so we will not oppose it.

He talked about a mandate. Does the word "mandate" ring a bell for anyone? I think we came into this election seeking a mandate on something else, which will also involve doing what Dr John Kaye wants to do, that is, build new infrastructure—by selling the poles and wires.

**The Hon. John Ajaka:** Leasing.

**The Hon. GREG PEARCE:** You are correct, but I still treat it as selling. In 2011 the Labor Party had the good sense to recognise a mandate. I do not think they will recognise it this time. In fact, I just heard our former colleague the now Leader of the Opposition in the other place talking about his mandate to oppose it. Work that one out. No doubt there will be plenty of time for debate but it is an interesting issue. A succession of speakers from Labor and The Greens have criticised the scheme because, on their numbers, it has only created more than 40,000 jobs.

**The Hon. Dr Peter Phelps:** Only created.

**The Hon. GREG PEARCE:** Yes, only created more than 40,000 jobs out of the 188,000 jobs created in New South Wales since the O'Farrell Government came to office. The Government not only created this scheme but it also fixed the budget and the public service and helped businesses with the implementation of many reforms in occupational health and safety, workers compensation and so on. The only piece of sense I could make from Dr John Kaye's contribution when the legislation was first introduced was when he said that The Greens thought the Government should be investing in infrastructure. Next week The Greens will have the opportunity to support policy, which this Government has a mandate to implement, that will make available \$20 billion of extra money to invest in infrastructure.

I now turn to comment on figures that the Hon. Scott Farlow spoke about earlier in local government areas where the Jobs Action Plan has been particularly successful. I am proud that the Jobs Action Plan has been successful not only in Western Sydney but also in regional New South Wales. For example, at the end of April

Lake Macquarie had 1,708 applications, Maitland 1,400 applications, Wagga Wagga more than 1,000 applications, and Orange 821 applications. If those opposite do not consider that to be a major contribution to regional areas I suggest they talk to the Hon. Mick Veitch, who will be able to tell them how important it is to support employment in regional New South Wales. I am aware that the House does not want to spend too much time on this debate, so I will simply end my contribution. I applaud this Government for its policies and encourage all members to support the Government's mandate on this issue. I encourage Dr John Kaye to support the investment in infrastructure.

**The Hon. PAUL GREEN** [5.19 p.m.]: On behalf of the Christian Democratic Party, I support the Government's mandate and the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015. The Christian Democratic Party commends the Government for this piece of legislation. This legislation flows on from the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Fresh Start Support) Bill 2014 (No 2) which was supported by the Christian Democratic Party and passed by this Parliament in 2014. That bill provided for an additional \$1,000 to the existing Jobs Action Plan payroll tax rebate for the hiring of workers who had been made redundant from a designated employer. It created a great incentive for employers to take on workers who had been made redundant. The legislation was great for employers, great for workers and great for the New South Wales economy.

I turn to the substance of this bill. The Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011 established a payroll tax rebate scheme intended to assist in the creation of new jobs by providing employers with an incentive to increase their number of full-time equivalent employees. That scheme may be closed on a date to be appointed by order of the Minister for Finance, Services and Property. If no such date is appointed, the scheme is automatically closed on 30 June 2015. The object of this bill is to extend the date on which the scheme is automatically closed to 30 June 2019, just after the next election. I note the contributions that were made by other members in this debate. I note also that the extension of the Jobs Action Plan is estimated to require an investment of around \$305 million over the next four years.

The New South Wales economy is doing well compared with the economy of other States. As noted by the Hon. Scott Farlow, when he was talking about reports from CommSec, New South Wales was ranked as the equal best-performing State economy, along with the Northern Territory. CommSec cited retail trade, business investment and dwelling approvals as key drivers of the State's economic growth. New South Wales has overtaken Western Australia, where the fading mining boom has seen it lose ground in regard to population growth, retail trade and investment.

We could have been looking at a similarly declining economic outlook in this State if the Government had not leased Port Kembla, Port Botany and the Port of Newcastle. This State was looking down the barrel of a double-A credit rating and poor economic outcomes. But thanks to the vision of this Government, with the great support of the Christian Democratic Party and the Shooters and Fishers Party, this State was able to secure the coveted title of CommSec's number one State in Australia. That is what we have been working towards. I am sure all members of the House would rejoice in New South Wales being declared the number one State in Australia economically.

**The Hon. Sophie Cotsis:** We need more jobs in regional areas.

**The Hon. PAUL GREEN:** We want to see regional areas boom. I have some suggestions, which I will put on the record shortly. At the time of the October economic update, growth in New South Wales had been neither consistent nor sustained across all segments of the State economy. The good news is that over the last quarter the State appears to have consolidated its economic position and is showing more consistent growth across most sectors of the economy. Previously weak labour market indicators now appear stronger, with employment, labour force participation and job vacancies all improved for the quarter. The Christian Democratic Party will always support bills that encourage and facilitate good economic management.

Related to the substance of this bill is the unemployment rate. The Christian Democrats will support bills that enhance productivity and reduce red tape, and green tape for that matter, as they have the effect of reducing unemployment. The average unemployment rate for New South Wales increased by 0.1 per cent to 5.9 per cent over the December quarter; and the unemployment rate for the month of December was at 5.9 per cent, slightly down from the peak of 6.0 per cent in November. It is now 0.2 per cent below the average Australian unemployment rate. New South Wales now has the third lowest unemployment rate of all jurisdictions. Tasmania has the highest unemployment rate at 6.7 per cent, followed by Victoria at 6.5 per cent. The fact the unemployment rate in New South Wales is below the average Australian unemployment rate is

testament to the way in which the New South Wales economy is being run. As always, the Christian Democratic Party would like to see New South Wales number one. This bill works towards that goal, and the Christian Democrats are happy to commend the bill to the House.

I note that there are over 695,000 small businesses in New South Wales, which keep the economy going. They need us to participate in dialogue that will help their businesses to thrive. Whenever small business is doing well, New South Wales is doing well. As unemployment drops, more people are able to pay their mortgage, pay for their children's education, buy the car of their choice and feed their family. This reduces stress and improves things around the dinner table. A healthy economy builds strong communities, and the Christian Democratic Party is all for that.

I note that the Government was supporting a relocation initiative as well. I strongly recommend that the Government look at reducing payroll tax and have specialised reductions to incentivise major organisations to move out to rural and regional areas. I commend that recommendation to the Government. The experience of the Christian Democratic Party is that the Government listens well. I hope it will take up that initiative to support rural and regional communities and to encourage businesses to relocate to areas of high unemployment—for instance, Ulladulla, where the unemployment rate is well over 10 per cent. If businesses were given some form of payroll tax reduction above the current one that would incentivise them to move to rural and regional areas. It would make the Hon. Mick Veitch and me very happy. I commend the bill to the House.

**The Hon. COURTNEY HOUSSOS** [5.27 p.m.]: I was not planning on making a contribution to the debate on the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015 but I feel compelled to make a brief contribution after hearing some of the comments of members opposite. Labor opposes this bill. At this point in the debate, it would be useful for me to refer to recent figures from the Australian Bureau of Statistics. The bureau has released its labour force data for April 2015. Listening to the speeches of those opposite one would believe that things are going pretty well right across New South Wales.

Despite regional New South Wales comprising around 40 per cent of the New South Wales population, only 12 per cent of jobs created between 2011 and 2015 in New South Wales were in regional areas. The unemployment rate in regional New South Wales jumped from 5.5 per cent to 7.4 per cent, and it is as high as 10 per cent in the Hunter. There are 22,000 more unemployed people in regional New South Wales than there were when the Coalition was elected to office. This is hardly something to be crowing about as a success. I have one final statistic. Despite the Government's promise to create 40,000 jobs for regional areas, only 12,500 have been added over the past four years.

**The Hon. Dr Peter Phelps:** Only 12,000.

**The Hon. COURTNEY HOUSSOS:** Some members opposite seem to think that adding 12,500 jobs is the same as adding 40,000, which was the Government's election commitment. Having grown up in regional New South Wales and having worked across country New South Wales over the past nine years, I understand the importance of jobs, especially in rural and regional New South Wales. This is not a plan for jobs, and that is why Labor is opposing the bill.

**The Hon. MICK VEITCH** [5.29 p.m.]: I speak in debate on the Payroll Tax Rebate (Jobs Action Plan) Amendment (Extension) Bill 2015.

**The Hon. John Ajaka:** Point of order: There are far too many interjections. I cannot hear the Hon. Mick Veitch.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! The member will be heard in silence.

**The Hon. MICK VEITCH:** As I have been sitting here and looking around the Chamber I have come up with some tips for Government members. If they want to pack the Chamber they just need to get the Hon. Greg Pearce to speak. He has brought all members into the Chamber. I say, "Welcome back, Greg." He gave a stunning performance. The Hon. John Ajaka had to give him a bit of space as he was walking around flailing his arms. The Hon. Greg Pearce was right back in his element. I would be careful if I were Minister Ajaka as the Hon. Greg Pearce might be on the way back. His contribution was a job application if ever there was a job application. I must tell the Hon. Greg Pearce about some of the things that have happened since he has not been in Cabinet.

**The Hon. John Ajaka:** Point of order: My point of order is relevance. Nothing that is being said is relevant to the long title of the bill.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! The member will return to the leave of the bill.

**The Hon. MICK VEITCH:** If the Minister had waited 10 seconds he would have heard me refer to payroll tax. In the Hon. Greg Pearce's absence from Cabinet a few payroll tax bills have come into this place. I have a tip for the newer members on the other side of the Chamber. When the Whips hand out speeches read them and correct them because they will be wrong. New members also need to know about some of the payroll tax rebate bills introduced by this Government. One that comes to the mind is the payroll tax rebate scheme for disability employment. We all remember that scheme which has been quite successful. If new members look at the figures they will see that in the first 12 months the Government budgeted for 100 placements across New South Wales.

**The Hon. Dr Peter Phelps:** Point of order: The bill is not about the disability rebate scheme, it is about the payroll tax rebate scheme. The member is straying well beyond the leave of the bill. In fact, one could say he has not come within a bull's roar of the long title of the bill.

**The Hon. Shaoquett Moselmane:** To the point of order: Mr Deputy-President, you have indicated that members have wide latitude when speaking about these matters. The member is exercising that latitude.

**The Hon. Trevor Khan:** To the point of order: Wide latitude does not mean that members are entitled to speak on anything they like. Plainly, members have to keep within the leave of the bill.

**The Hon. Adam Searle:** To the point of order: The member is talking about the effectiveness of the rebate mechanism and the different contexts in which it has been used. He is outlining where it has and has not been successful. That is entirely relevant to the ambit of the bill.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! It is on the very edge of the ambit of the bill. I remind the member that if he goes much further off the cliff on this issue a point of order will be upheld.

**The Hon. MICK VEITCH:** All the points of order are quite fascinating. At least people are listening to what I am saying.

**The Hon. Greg Pearce:** There is always a first for everything.

**The Hon. MICK VEITCH:** Absolutely. I mentioned the disability rebate scheme to demonstrate the construct of these schemes. For the benefit of new members in particular, the Government budgeted for 100 placements in the first 12 months of the disability rebate scheme and delivered two. It was not a very successful scheme. Orange has been mentioned and so with wide latitude I can talk about Orange. Do Government members remember the payroll tax bill that they brought in to assist Electrolux workers? The construct of that scheme had one small problem: the cut-off date was before the workers would be made redundant.

Labor proposed an amendment and it took the Government 26 weeks—six months—to come back with a new bill to accommodate the amendment and to make the scheme available to Electrolux workers. That is another example of why we become quite concerned about the construct of payroll tax rebate scheme bills when the Government brings them before us. Its history is not as good as it would have its new members believe, hence I again urge new members to read the speeches that the Whips give them. Although the Hon. Greg Pearce packed the Chamber there is one thing I need to point out to him. I doubt whether those sorts of failures would have occurred under his stewardship. It was good to see him back in form at the lectern.

I say to all members that we are opposing this scheme because of the failures of other schemes that the Government has put forward. The proof will be in the pudding as to what this bill will do, but when Government members talk about job creation they should talk also about job losses. They need to acknowledge the gross and the net. The Hon. Greg Pearce knows a lot about that. The Government has lost more jobs than it has created and that is the issue. The speeches members are given will talk about the jobs that the Government has created; they will not talk about the jobs that it has lost. That is why the unemployment rate has gone up and it is why we are opposing the bill.

**The Hon. DANIEL MOOKHEY** [5.36 p.m.]: Like my good friend the Hon. Courtney Houssos it was not my intention to speak in debate on the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015, but with members of the House having such fun it would be remiss of me not to try to enjoy it as well. The contribution of my good friend the Hon. Scott Farlow also prompted me to make a contribution, because he said that the bill would lead to 150,000 new jobs while saying it would cost taxpayers a mere \$300 million. I am not a mathematician but on those figures this scheme will cost New South Wales taxpayers approximately \$2,000 per job. Ordinarily that would be money well spent if it did indeed go to small business.

Prior to joining this Chamber I ran one of the many thousands of small businesses that exist in this State. I was never eligible for the payroll tax rebate scheme because it has a turnover threshold of \$650,000, which is now rising to \$750,000 as the Hon. Scott Farlow mentioned. Ordinarily if a small business is turning over \$750,000 a year it is doing very well and it would be quite a successful small business. I give credit to those small business owners. But it turns out that the people most likely to claim the rebate are not from small business but big business, which is not a surprise.

While members opposite may style themselves as the party for small business they are in fact the party for big business. There is no scheme of corporate welfare that members opposite will not support. It is audacious for my good friend the Hon. Scott Farlow to say in this Chamber that the scheme will create 150,000 new jobs. The last time the Government proposed this scheme it promised 40,000 new jobs. It has raised the number by a good 110,000. Did the Government come close to reaching its first target of 40,000? Did it get to 30,000 or 20,000? No, it got to 12,000 jobs. Rather than reviewing the scheme and seeing why it failed so dramatically by only achieving a fifth of what it was meant to, the Government has tripled the target.

If the House is to back this scheme we should evaluate against many of the schemes Government members and the parties they represent have sponsored. I must say that they have given us plenty of evidence to compare it with. I wonder whether this scheme will be as successful as that "let's pay people to move to the country" scheme from which the Government had to retreat. I wonder whether we should expect the same results. Throughout my tenure in this House I look forward to finding one policy or one problem that Government members do not think can be solved by a tax subsidy.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [5.39 p.m.], on behalf of the Hon. Duncan Gay, in reply: I thank all members who contributed to debate, particularly the Hon. Greg Pearce. It was good to hear the original architect speak about his bill. I am extremely disappointed that the Opposition and The Greens have indicated they will not support the passage of the bill. The Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015 delivers on the Government's election commitment to encourage job creation and further strengthen the New South Wales economy. It provides for an amendment to the Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011 to extend the closure date of the Jobs Action Plan by four years from 30 June 2015 to 30 June 2019.

The Opposition stated it has some concerns that the Government is not intensifying employment for small firms that do not pay payroll tax. That is simply wrong. If Opposition members had been following the election campaign, they would know that the Government also has committed to establishing a new \$2,000 small business employment incentive for businesses that do not pay payroll tax and that it will reward small businesses for each additional employee they take on. Since this Government came to office, approximately 188,000 jobs have been created. Data from the Jobs Action Plan shows that up to the end of April 2015, more than 101,000 Jobs Action Plan registrations have been received, which means new jobs in Sydney and new jobs in regional areas of New South Wales.

Extension of the scheme means that employers can continue to hire additional staff and continue to receive the benefits of the current Jobs Action Plan scheme. As members would be aware, under the scheme employers who are liable to pay payroll tax can continue to apply for a \$5,000 payroll tax rebate for each additional full-time employee, with a pro rata rebate for part-time employees based on the number of hours worked compared to the standard working hours of full-time employees. The rebate will still be paid in two payments, with \$2,000 paid on the first anniversary of the hiring of the additional staff member and \$3,000 paid on the second anniversary of the hiring of the additional staff. This bill recognises the challenging economic environment in which many businesses operate and encourages employers to continue hiring additional employees. The bill demonstrates that the Liberal-Nationals Government remains committed to making New South Wales the first place in which to do business and to encouraging employers to expand their operations. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

**Leave granted to proceed to the third reading of the bill forthwith.**

### **Third Reading**

**Motion by Mr Scot MacDonald, on behalf of the Hon. Duncan Gay, agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly without amendment.**

### **ADJOURNMENT**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [5.43 p.m.]: I move:

That this House do now adjourn.

### **FEDERAL GOVERNMENT HEALTH FUNDING**

**The Hon. WALT SECORD** (Deputy Leader of the Opposition) [5.43 p.m.]: As the shadow Minister for Health I will address the impact of the Abbott Government's health cuts on New South Wales, which has the largest health system in Australia with more than 220 public hospitals and 105,000 staff. On a typical day, 6,500 people visit a New South Wales emergency department, 5,600 people are admitted to hospital and 200 babies are born. It would be clear to any observer that a health system of this scale requires significant investment. I choose the word "investment", not "cost", for obvious reasons. Yet, each day, New South Wales health workers are called upon to deliver better healthcare for less. This is because the health and hospital system is under continuing pressure from longer life expectancy, a growing birth rate, migration, and new advances in medicine; but, most importantly, it is under pressure due to repeated funding cuts by State and Federal Liberal-Nationals governments. Sadly, those cuts are ideologically driven. It is a world view that sees a health community as a cost, not an investment.

Conservatives do not support Medicare and they are against a strong public health system. That is why in his first week in the job, the Premier said he believed the private sector was better suited than governments to provide health. The Premier's vision of private health is unfolding at the northern beaches hospital, the Rouse Hill hospital, the Lower Hunter-Maitland hospital, and privatised day surgery at the new Byron central hospital. It is no surprise that Premier Baird is silent in the face of Federal attacks on NSW Health. He is hiding behind the promise of a Council of Australian Governments [COAG] July retreat with the Prime Minister. But the Premier cannot hide from his past form.

On that past form, we can predict that the Premier will sign up to the Abbott agenda and put Liberals and Nationals in Canberra ahead of families in New South Wales. It is the same Canberra Liberals and Nationals who cut approximately \$60 billion from Australian health and hospitals while the Premier, Mike Baird, did and said nothing. At the minimum, the Opposition believes, based on Premier Baird's own figures, that New South Wales stands to have \$16 billion ripped out of Health. The same Canberra Liberals and Nationals also ripped another \$2 billion earlier this month nationally while Premier Mike Baird watched on. As each day goes by, we see the impact of these cuts and we see that they hit the most vulnerable the hardest. The \$125 million ripped from child dental programs has resulted in waiting lists blowing out—not in Warringah or Manly, but in Western Sydney and on the North Coast.

Our State's doctors and nurses are appalled by the decision to scrap the \$144 million "Healthy Kids Check" whereby a nurse or a general practitioner [GP] is consulted on a child's development before he or she starts at school. It is a cost-effective program that picks up health and learning issues early. We know that early intervention helps the child and also saves the taxpayer. That is why scrapping this program is cruel to children



with needs as it is short-sighted. Those Federal cuts are in addition to the \$3 billion slashed by the State Government, which includes \$2.2 billion in service cuts and \$775 million in staffing cuts. Instead of defending our communities, the Baird team is carrying out the work of its Federal counterparts.

Just last week The Nationals slashed 182 nursing and midwifery hours a week from the Lismore Base Hospital, which means that patients are being turned away from the women's care unit. Furthermore, this afternoon, Bernadette Loughnane, the executive director of the Tweed Byron Health Service Group within NSW Health announced that on Friday 29 May the Murwillumbah District Hospital will close its midwifery practice and birthing service, which has been operating since December 2014. There is no way to regard this as other than a cruel attack on North Coast mums. Our communities are bearing the real cost of the Liberals and Nationals rabid ideological agenda.

The Abbott Government has torn up health partnership agreements that improve elective and emergency performance, slashed funding to New South Wales hospitals, failed to honour existing agreements on health, abolished agreements on preventative health that promoted healthy behaviour and tackled the costs of chronic diseases, and announced that the landmark 2011 National Health Reform Agreement will be scrapped in July 2017. They are all but tearing down every pillar of our health and hospital services and are not putting back one brick on top of the other. They are wreckers, not builders.

The pain for struggling New South Wales families can only get worse under this regime. State and Territory health systems cannot survive without Federal support—this has always been the case—and that fact of life has been acknowledged by every Prime Minister since World War II, until now. Clearly, there needs to be a new approach with the Federal Government on health and hospital funding, but this will happen only when our largest State fights for it. While New South Wales has been silent, Queensland, South Australia and Victoria have completed work on the impact of the Federal cuts and they are fighting for their communities. New South Wales needs a Premier and a Minister for Health who will fight for New South Wales—not ones who are lapdogs for Canberra. I thank the House for its consideration.

### IRELAND MARRIAGE EQUALITY REFERENDUM

**The Hon. TREVOR KHAN** [5.48 p.m.]: I congratulate the people of Ireland on the success of the referendum on marriage equality last weekend, but I particularly congratulate the people of Ireland for the way in which the referendum proceeded. They showed an enormous degree of tolerance and respect during the debate. It is a good reflection upon the people and the institutions of Ireland. I acknowledge among the institutions that maintained a high degree of civility during the debate the Catholic Church of Ireland, which both in the progress of the debate and in defeat showed considerable respect for the people of Ireland, the decision they made, and for their continuing significant place in Irish society. It is worth noting that the result—62 per cent in favour—was a significant win for those who are in favour of marriage equality.

Of the 43 constituencies that voted, 42 were in the majority. Only one of the constituencies voted in favour of the status quo. I make that observation because it was plain from the vote that not only the urbanised areas of Dublin and the surrounds supported marriage equality; all the rural counties, except for one, voted in favour, including Mayo and Cork. That was a reflection of the fact that it was a civil debate. Respect was shown throughout Ireland for the decision-making. It was not a reactive decision; an intelligent and thoughtful decision was made. I end my contribution by noting that on 25 May in the *Irish Times*, journalist Mr Fintan O'Toole wrote an article in which he sought to identify a number of the factors that played upon the minds of many Irish people—factors that allowed them to come to a decision. Mr O'Toole wrote:

Even so, this is not a victory for articulate statement. Deep down, it's a victory for halting, fretful speech. How? Because what actually changed Ireland over the last two decades is hundreds of thousands of painful, stammered conversations that began with the dreaded words "I have something to tell you..." It's all those moments of coming out around kitchen tables, tentative words punctuated by sobs and sighs, by cold silences and fearful hesitations. Those awkward, unhappy, often unfinished conversations are where the truths articulated so eloquently in the campaign were first uttered. And it was through them that gay men and lesbians became Us, our children, our families.

The conversations that occurred in Ireland that were so persuasive are the same conversations that occurred in Australia. As we move closer to the day—and we are certainly closer to that day—when marriage equality becomes law in Australia, I hope we all reflect on the way in which the Irish maintained a degree of civility in the debate. I hope Australians reflect on the necessity for us to come out the other end of the debate on marriage equality respecting the position of us all. Whether we agree or disagree it is important that we remain a united and civil society.

## SAND MINING

**Mr JEREMY BUCKINGHAM** [5.52 p.m.]: Earlier this year I was particularly pleased to support the efforts of the two groups opposing major and inappropriate sand mining proposals—one at Nelson Bay Road at Bobs Farm, with the extraction of more than 10 million tonnes over 15 years; and one at Cabbage Tree Road in Williamstown, with the extraction of 4.6 million tonnes over 15 years. The local environment is under threat everywhere in the State from development pressures, in particular, from mining and quarrying proposals. Port Stephens is particularly vulnerable, with valuable groundwater aquifers supplying quality water for domestic consumption, agriculture and horticulture, and large areas of habitat supporting threatened species of flora and fauna. Much of the area is on low-lying, flood-prone land and areas of acid sulphate soil with fragile coastal sand dunes.

Shea Brunt and the group Say No to Sand Mining in Bobs Farm have been particularly important in this debate. The proposed sand mine at Bobs Farm would lie immediately adjacent to the main access road to the Tomaree Peninsula, which attracts hundreds of thousands of tourists a year, largely because of its natural beauty, including extensive bushland and national parks. The sand mine would destroy a large area of native woodland, as well as a fig and olive farm on land already illegally cleared in the past. Habitat for threatened species, including koalas, would go. The major excavation and processing would risk high-quality groundwater which supplies drinking water and supports the many horticultural enterprises in the area.

An estimated 400 heavy truck movements each day would pass within metres of the local public school at a dangerous junction with Nelson Bay Road, and then overload that road to the west. Much of it is single lane, which is already a safety risk due to other operational and approved sand mining operations. The local residents, including children, would be exposed to constant dust, with uncertain health effects. There is no hyperbole in what I have said. That proposal would mean that thousands of truck movements each month would go within 10 metres of a public school. Cain Gorfin and the Williamstown and Surrounds Residents Action Group are also in a fight to save their community. The proposed sand quarry on Cabbage Tree Road at Williamstown would also destroy large areas of native vegetation, including koala habitat.

**The Hon. Dr Peter Phelps:** Is there any quarry that you do support?

**Mr JEREMY BUCKINGHAM:** The granite quarry at Eugowra is one of the best in the world, and I love it. Central West Granite is a great quarry; I have to put that on the record. The proposed quarry at Williamstown would risk the groundwater in the Tomago sand beds, which supply much of the Lower Hunter's drinking water. The quarry would add a further 136 heavy truck movements per day to already heavily trafficked and inadequate single-lane roads. This proposal is further tainted by unexplained irregularities in the way in which Port Stephens Council, which owns the land, awarded the contract for sand extraction in 2014.

The local communities of Williamstown and Bobs Farm are united in their opposition to these proposals for further sand extraction from an already heavily mined area. The health, safety and environmental risks of extraction in these locations are unacceptable. But local people face an unequal battle, given a planning system that is biased in favour of miners and developers and has conflicts of interest embedded in the assessment process. They also face a council that is the landowner, in one case, and the assessment authority in the other. That council is unashamedly pro-development at any cost, and has a mayor who is a major sand miner.

I also recognise on the record the strong local action groups throughout the Port Stephens area who are concerned with protecting their precious environments. The groups include the Voices of Wallalong and Woodville, Boomerang Park Action Group, Say No to Sand Mining in Bobs Farm, Tomaree Ratepayers and Residents Association, Williamstown and Surrounds Residents Action Group, South Tomaree Community Association, and Port Stephens EcoNetwork. One can see from that list that there is enormous concern about overdevelopment of sand mining in the Port Stephens, Tomaree and Cabbage Tree Road areas. This community has already defended itself very successfully from Dart Energy's proposals for coal seam gas at Fullerton Cove. They will fight this proposal tooth and nail because tourism, horticulture and agriculture have been longstanding industries in this area—one of the oldest farming areas in New South Wales. Bobs Farm was named after a convict who set aside that land north of Newcastle to farm. The Greens have been pleased to work with these groups and will continue to support them to defend their community from inappropriate development.

## RIVERINA EASTERN REGIONAL ORGANISATION OF COUNCILS

**The Hon. PETER PRIMROSE** [5.57 p.m.]: The Riverina Eastern Regional Organisation of Councils comprises Bland Shire Council, Coolamon Shire Council, Cootamundra Shire Council, Greater Hume Shire

Council, Gundagai Shire Council, Junee Shire Council, Lockhart Shire Council, Temora Shire Council, Tumbarumba Shire Council, Tumut Shire Council, Urana Shire Council, Wagga Wagga Shire Council, Goldenfields Water County Council and Riverina Water County Council. On 14 May they wrote to the Premier to express their concerns about his Fit for the Future policy, as have many other local councils and communities. The letter reads:

I write to you on behalf of the Riverina Eastern Regional Organisation of Councils (REROC) to express our members' significant concerns in relation to the timelines IPART's Expert Panel have been tasked with to assess the local councils' Fit for the Future (FFTF) proposals.

Our members are very concerned that the timelines are too tight to provide a quality outcome. IPART released its Draft Methodology for assessing proposals which has introduced new requirements that were not foreshadowed in the Office of Local Government's (OLG) materials; including the need to provide a business case to support no-merger proposals and the use of JOs to provide services for Rural Councils. The latter proposal has caused concerns because the JO Pilots are not trialling Rural Council arrangements.

Submissions on the Draft Methodology will be accepted until 25 May, the last of the face-to-face consultations will be in Wagga Wagga on 21 May. IPART is required to have its final Methodology released by 1 June meaning that the Expert Panel will have just 5 working days to consider all the submissions, make changes to the Methodology and re-publish the information.

This then gives councils less than a month to finalise FFTF submissions that respond to the Expert Panel's Methodology.

Further we note that the Terms of Reference require the Expert Panel to issue its Final Report by 16 October. This means that the Panel has less than 3 months to review 152 FFTF submissions and provide a considered response; less than one day for each submission. It is our understanding that most submissions will be very lengthy and indeed the Expert Panel is encouraging councils to put in as much information as possible.

Our members are at a loss to understand the need for the rush. Surely it is preferable that there be sufficient time given to allow a properly considered response. The process is considering options for the long term future of local government in NSW and our members do not believe this can be adequately or appropriately addressed in 60 working days.

In addition the time frame is also out of alignment with the JO Pilots meaning that the Expert Panel, which is looking to JOs to take on a role with rural councils will not have the benefit of the outcomes of the pilots to inform their decision-making because the pilots will not be completed until mid December.

In light of the above our members recommend that the Local Government response to FFTF be extended by at least two months and that the delivery of the Expert Panel's Final Report be extended to February 2016 to allow the Panel to consider the outcomes of the JO pilots.

We would welcome the opportunity to discuss our concerns directly with you at your earliest convenience.

Yours sincerely  
Cr Paul Braybrooks OAM  
Chairperson.

I advise the Premier that these are reasonable requests from reasonable people on behalf of their local communities. I urge him to listen to what they have to say and to act on their good advice.

## RSPCA

**The Hon. ROBERT BORSAK** [6.01 p.m.]: I speak tonight about the RSPCA, particularly in the conduct of their prosecutorial role. To their credit, the RSPCA in New South Wales has done some remarkable work in the area of animal welfare. Founded in Sydney in 1873, the organisation has a decorated history in being the voice of animals in Australia. The breadth of the volunteer work and the donations that have been put into the RSPCA are also impressive. Despite this, the RSPCA has morphed into a quasi-political unit, underpinned by skewed animal rights ideologies and armed with a questionable prosecutorial department.

The RSPCA is no stranger to controversy and improper practices. I remind the House of some disturbing incidents that have tainted the reputation of the organisation and ostracised many of its supporters along the way. In June 2008, in what was a breathtaking display of ignorance and senselessness, RSPCA officers executed 48 cattle on a property in Pilliga. Some of the cows that were shot left motherless calves. The RSPCA officers clearly failed to appreciate the fact that a severe drought had gripped the region. Faced with crippling drought and having exhausted all other avenues to keep their livestock nourished, Mrs Ruth Downey, a property owner near Pilliga, downloaded feeding instructions from the website of the NSW Department of Primary Industries. That information proved to be incorrect. A cursory examination of the video footage on the day of the execution, which is available online, clearly shows that the cattle were indeed lean but were nowhere near starvation.

During legal proceedings Enid Coupe, a Walgett veterinarian, gave evidence that the blood tests carried out on the cattle and the supporting video footage did not indicate starvation, despite persistent claims by the RSPCA officers to the contrary. At the time the RSPCA Chief Executive Officer, Mr Steve Coleman, told the *Daily Telegraph* that they were "dead cows walking" and it was the worst case of animal cruelty he had seen. If the RSPCA officers deemed it so cruel to keep the cows alive, why did they keep them alive for another three months? It would have been interesting to have heard the voices of those supposedly starved animals that the RSPCA claimed to represent, before they were executed.

In another display of foolishness, in February 2010 the New South Wales RSPCA raided the Waterways Wildlife Park in Gunnedah. They sedated and seized eight koalas before taking them to Port Macquarie. Members will be aware that this incident was the subject of a parliamentary inquiry. A camera crew was present from the Seven Network show *RSPCA Animal Rescue* and captured footage of the seizure. If there was ever subversion or undermining in the investigative and prosecutorial process of the RSPCA, this was it. During the airing of the series *RSPCA Animal Rescue* I suspect that the RSPCA was deliberate in the selection of which cases to investigate and prosecute, depending on how scandalous they were and which would guarantee a larger audience. I would like to know how those who have donated to the RSPCA for the care and protection of animals feel about this.

Calls for government intervention into some of the practices and policies of the RSPCA have become commonplace across Australia. My colleague in Western Australia, the Hon. Rick Mazza, has set up the Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australian (Inc) to inquire into the operations of the organisation, including an examination of its funding from the government, its objectives and the use of its powers.

The RSPCA is in a unique situation. As a non-government body with limited funding and a charitable structure it has been empowered to lay criminal charges against people who breach the Prevention of Cruelty to Animals Act 1979. With this comes responsibility. We need to make sure that the proper processes are in place to ensure that the RSPCA operates with diligence and integrity. I congratulate my colleague the Hon. Rick Mazza on establishing the Western Australian inquiry. I would welcome a similar inquiry in New South Wales.

### NATIONAL SIMULTANEOUS STORYTIME

**The Hon. BRONNIE TAYLOR** [6.06 p.m.]: At 11.00 a.m. today hundreds of thousands of Australian children and their families read the same picture book. That might strike members as a rather peculiar event, but National Simultaneous Storytime is a fantastic initiative and something I was pleased to participate in this morning in Cooma. National Simultaneous Storytime is the idea of the Australian Library and Information Association and is now in its fifteenth year. Each year a picture book, written and illustrated by an Australian author, is selected to be shared by families and communities across the country, in libraries, schools, family homes, childcare centres, bookshops and preschools.

This year the chosen book was *The Brothers Quibble* by Aaron Blabey. It is a terrific book about sibling rivalry and the challenges that can arise in some families. It is a story about Spalding Quibble and his new brother Bunny. The book takes an honest approach to sibling rivalry. It is scattered throughout with humour—both for the children listening and for the adult reading. This morning I had the delightful experience of reading the book at the Cooma library to more than 40 children and their families.

National Simultaneous Storytime is an event worth celebrating. It promotes the value of reading and of literacy, which is a worthwhile aim. Literacy is a foundation for a successful life, creating better educational and occupational outcomes and improving self-esteem. The best results for children are seen when their literacy journey starts at birth. Shared reading plays an important role in their development. National Simultaneous Storytime encourages parental involvement in learning. When parents become involved in the education of their children, it leads to better educational outcomes for those children.

I am passionate about the important role that parents and communities play in the education of our children. The benefits of parental engagement in a child's education are immeasurable. National Simultaneous Storytime plays an important role in promoting the simple joy of reading by our children and to our children. As our younger generations are more absorbed by technology, reading remains a simple and timeless joy. I remember reading to my children for what seemed like hours every night, particularly when *Harry Potter* was

the ultimate book to read. We read, reread and reread *Harry Potter*. My girls still talk about when I went to school and participated in readers with them and their friends. It is a lovely memory for us that we must keep alive as a community. That is why National Simultaneous Storytime is so important. We are not only acknowledging our writers but also our illustrators. We are showing our children that reading is a family activity, which is something that we all enjoy and take great delight in.

**Question—That this House do now adjourn—put and resolved in the affirmative.**

**Motion agreed to.**

**The House adjourned at 6.10 p.m. until Thursday 28 May 2015 at 9.30 a.m.**

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