

# LEGISLATIVE COUNCIL

Thursday 17 November 2005

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**The President (The Hon. Dr Meredith Burgmann)** took the chair at 11.00 a.m.

**The Clerk of the Parliaments** offered the Prayers.

## SELECT COMMITTEE INTO THE CROSS-CITY TUNNEL

### Establishment

**The PRESIDENT:** I report the receipt of the following message from the Legislative Assembly relating to the appointment of a Joint Select Committee on the Cross-City Tunnel:

MADAM PRESIDENT

The Legislative Assembly desires to inform the Legislative Council that, having had under consideration the Legislative Council's message dated 15 November 2005, it has this day agreed to the following resolution:

1. That a Joint Select Committee be appointed to inquire into and report on:
  - (a) the role of Government agencies in relation to the negotiation of the contract with the Cross City Tunnel Consortium,
  - (b) the extent to which the substance of the Cross City Tunnel contract was determined through community consultation processes,
  - (c) the methodology used by the Roads and Traffic Authority for tendering and contract negotiation in connection with the Cross City Tunnel,
  - (d) the public release of contractual and associated documents connected with public private partnerships for large road projects,
  - (e) the communication and accountability mechanisms between the RTA and Government, including the Premier, other Ministers or their staff and the former Premier or former Ministers or their staff,
  - (f) the role of Government agencies in entering into major public private partnership agreements, including public consultation processes and terms and conditions included in such agreements, and
  - (g) any other related matters.
2. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of eight members, as follows:
  - (a) four members of the Legislative Council, of whom:
    - (i) one must be a Government member,
    - (ii) one must be an Opposition member, and
    - (iii) two must be crossbench members, one of whom will be Revd Mr Nile,
  - (b) four members of the Legislative Assembly, of whom:
    - (i) two must be Government members, and
    - (ii) two must be Opposition members.
3. That the members be nominated in writing to the Clerk of the Parliaments and the Clerk of the Legislative Assembly by the relevant party leaders and the independent and crossbench members respectively within seven days of this resolution being agreed to by both Houses.
4. That Revd Mr Nile be the Chair of the committee.
5. That the Chair of the committee have a deliberative vote and, in the event of an equality of votes, a casting vote.
6. That, notwithstanding anything to the contrary in the standing orders of either House, at any meeting of the committee, any four members of the committee will constitute a quorum, provided that the committee meets as a joint committee at all times.

7. A member of either House who is not a member of the committee may take part in the public proceedings of the committee and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.
8. That the committee report:
  - (a) in relation to paragraphs 1 (a) to (e) by the first sitting day in February 2006, and
  - (b) in relation to paragraph 1 (f) by the first sitting day in April 2006.
9. That leave be given to members of either House to appear before and give evidence to the committee.
10. That the time and place for the first meeting be Thursday 1 December 2005 at 1.00 pm in room 1153.

Legislative Assembly  
16 November 2005

JOHN AQUILINA  
Speaker

**Consideration of message, by leave, ordered to stand as an order of the day.**

## **BUSINESS OF THE HOUSE**

### **Precedence of Business**

**Motion by the Hon. Tony Kelly, on behalf of the Hon. John Della Bosca, agreed to:**

That on Thursday 17 November 2005 Government Business take precedence of General Business.

## **CAREEL BAY MARINA PROPOSAL**

### **Production of Documents: Order**

**Motion by the Hon. Michael Gallacher agreed to:**

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the passing of this resolution the following documents in the possession, custody or control of the Minister for Planning, the Department of Planning, the Minister for Primary Industries, the Department of Primary Industries, the Minister for the Environment, the Department of Environment and Conservation, the Minister for Lands, the Department of Lands, the Minister for Natural Resources and the Department of Natural Resources:

- (a) all documents relating to the proposed marina development by Austral Monsoon at Careel Bay in the electorate of Pittwater,
- (b) all documents supporting or opposing the development application, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

## **STANDING COMMITTEE ON SOCIAL ISSUES**

### **Extension of Reporting Date**

**Motion by the Hon. Jan Burnswoods agreed to:**

That the reporting date for the reference to the Standing Committee on Social Issues relating to the inquiry into the funeral industry be extended to Friday 9 December 2005.

## **TABLING OF PAPERS**

**The Hon. Eric Roozendaal tabled the following papers:**

- (1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 2005:

Department of Community Services  
NSW Businesslink Pty Ltd
- (2) Annual Reports (Statutory Bodies) Act 1984—Report of the Rice Marketing Board for the year ended 30 June 2005.

**Ordered to be printed.**

## PETITIONS

### Camden Maternity Ward

Petition calling on the Premier to honour election campaign commitments by reopening the Camden Maternity Ward, received from **the Hon. Charlie Lynn**.

### Crown Land Leases

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **the Hon. Melinda Pavey**.

### Fairfield City Councillor Racial Vilification Allegation

Petition requesting an inquiry into the statements of Fairfield City Councillor Lawrence White in relation to Asian residents of Cabramatta, received from **the Hon. Dr Peter Wong**.

## FAIRFIELD CITY COUNCILLOR RACIAL VILIFICATION ALLEGATION

### Motion by the Hon. Dr Peter Wong agreed to:

That the following matter of public importance be discussed forthwith:

Racial vilification in Fairfield Council.

**The Hon. Dr PETER WONG** [11.10 a.m.]: This matter of public importance is urgent because of the racial vilification comment by Australian Labor Party [ALP] caucus leader Councillor Lawrence White of Fairfield City Council. It is urgent not only because Councillor White has racially vilified the entire Asian community but because he has also conspired with some councillors to bring about a set of undemocratic processes that has now brought into question the integrity of Fairfield City Council. It is urgent because on 18 October Fairfield City Council prevented residents and ratepayers from attending a full council meeting, thereby breaching the Local Government Act 1993.

This matter is urgent because, despite more than 1,000 people peacefully demonstrating and calling for more parking spaces and demanding an apology from Councillor White for his comments against the Asian community, only a select group of people were allowed inside the council chamber. It is urgent because the council ensured that heavy-handed security staff singled out protestors, refusing them entry to the council meeting. The Local Government Act 1993 and the Fairfield City Council code of meeting practice explicitly states that everyone is entitled to attend a meeting of the council and those of its committees of which all members are councillors and a Council must ensure that all meetings of the Council and of such committee are open to the public.

**The Hon. Melinda Pavey:** What did he say?

**The Hon. Dr PETER WONG:** Here it comes. This matter of public importance is urgent because of inappropriate pressure being placed on local community leaders to make press statements in support of Councillor White. A media release went out under the name of Kien Phong, justice of the peace and secretary and treasurer of the Sydney Greater Western Chinese United Council, representing 18 community groups and associations, and Mr Bich Phan, President of the Vietnamese Community of Australia New South Wales Chapter, supporting Councillor White. They both categorically deny having made the statements in the media release and are demanding their immediate retraction. Mr Phan is quoted as saying that these statements came out of the blue. He had not agreed to contribute to any document and did not know who had used his name in support of Councillor White. It is urgent.

**The Hon. Duncan Gay:** Why?

**The Hon. Dr PETER WONG:** It is coming now. It is urgent because ratepayers, residents and businesses have been lobbying council—this is the background—for many years to rectify this serious lack of parking spaces and facilities in Cabramatta. They have called upon council to cease the bad planning and neglect of Cabramatta residents and businesses. Fairfield City Council has failed in this regard and now seeks to deflect criticism by implying that Asians are somehow responsible for council's own failures to provide adequate car parking facilities.

This matter is urgent because on the evening of 18 October 2005 Councillor Ngo, a Unity party councillor and a democratically elected official, was undemocratically gagged from speaking against the controversial Labor proposal to rewrite parking signs at Cabramatta in Mandarin by placing him in disorder and threatening him with expulsion from the chamber. Councillor Ngo simply sought to introduce an urgency motion and was refused, despite the support of Liberal councillors Joe Molluso and Frank Oliveri.

It is urgent because the lock-out of residents and ratepayers is nothing more than an attempt to silence community criticism of Councillor White for his vilifying comments against the Asian community. This matter of public importance is urgent because Councillor White called Cabramatta motorists among "the worst drivers in the world". He is also quoted as saying that "their driving has improved but their parking clearly has not". He proposes "to look at putting up some Asian sort of sign ... or colour coding them to try to change the driving and parking habits of people in Cabramatta".

This motion is urgent because Councillor White's statements have enraged residents by stating that the alleged problems are Asian in nature. The Action Group against Discrimination and for Parking has called upon Councillor White to apologise or resign over the statements and to make available any report or otherwise that would indicate the nationalities of the offending motorists. The comments by Councillor White have caused great anxiety and hurt among the Asian community, particularly his desire to introduce signs in Mandarin as a middle-of-the-road language.

**The Hon. Duncan Gay:** Signs in Asian to help Asian drivers?

**The Hon. Dr PETER WONG:** Definitely, I fully support that.

**The Hon. Duncan Gay:** Not!

**The Hon. Dr PETER WONG:** He failed to recognise that most residents in Cabramatta do not even speak Mandarin and there is no such thing as written Mandarin. Councillor White continues to cause community disharmony to shift the blame for council's own inadequate provision of necessary services. This matter is urgent because democracy in Fairfield City Council died on 18 October 2005 when a democratically elected councillor and 1,000 strong protesters were denied a legitimate right to be heard, were gagged and taken from the public gallery by strong-handed security staff.

It is urgent because, despite thousands of people indicating that they wanted to attend and protest at the next council meeting, Fairfield City Council has issued a warning to protesters planning to attend next Tuesday's meeting that they are not welcome. I never imagined that I would sit in this House and hear that ratepayers would be denied their fundamental rights. Council will not consent to the proposed protest meeting. It will not provide additional seating. Priority seating will be given to members of the public who attend for items on the agenda of the council meeting, but toilet facilities will be denied to protesters, and no traffic control measures will be provided by council. That is a total disgrace. A sitting Labor councillor is denying a fundamental right to all residents and ratepayers within the community to protest against mismanagement and abuse.

**The Hon. JOHN RYAN** [11.18 a.m.]: This matter concerns, in the main, Fairfield City Council. This was a fairly idiotic idea by a Labor councillor, Councillor Lawrence White, who took the view that it was necessary somehow or other to provide Asian drivers with some additional instruction on how to use the roads in Cabramatta and that it was necessary to have signs written in Chinese. It would be fair to say that the local community reacted extremely strongly to that matter and about 1,000 people arrived outside Fairfield City Council to protest.

Let me first say that concern about this matter is not a monopoly of interest by the Unity party. Other people have taken just as much interest in the matter, but it would be fair to say that the local Unity party has flogged this issue for as much political value as possible and, frankly, that is not entirely fair. For example, one of the issues that our colleague raised was that 1,000 people were refused admission to Fairfield City Council on an evening when they were protesting outside the council chambers and wanted to get inside. The simple truth is that no council, it would not matter where it was, could admit 1,000 protesters to the council chambers and conduct an orderly meeting.

What Fairfield City Council did was to admit about 15 people into vacant seats in the public gallery and allow them, as a representative sample, to observe the council meeting. Mr Phung Ngo—sorry, Councillor Thang Ngo—decided to take issue with the fact that it was not possible to admit all 1,000 protesters and put a

motion before the council suggesting that more people should be admitted. The Labor majority on the council refused to do that. A couple of the Liberal councillors decided that they would at least provide two or three extra seats. They denied themselves their own seats, and pushed their own seats from the council into the chamber and said that a couple of people could come and use those. Councillors Oliveri, Molluso and, I think, Nguyen, spent the rest of the meeting standing so that additional members of the public could come in and observe proceedings.

To be perfectly honest, that was about as much as Fairfield City Council could legitimately have done in order to facilitate people entering the council to observe the debate. I am informed that when this matter comes before the council the Liberal councillors intend to vote against the proposal to have multilingual signs erected in Cabramatta. They have detected what the community is worried about and they are prepared to support a motion—in fact they may well initiate a motion—to ensure that the proposal is not implemented in Cabramatta. It was probably an attempt by Councillor Lawrence White to gain a better local headline, as he is wont to do. As I understand it, Councillor White does not have the support of many of his Labor colleagues on the council. He might find himself a minority of one in relation to what seemed like a good idea at the time but has now exploded into a fairly significant outbreak of community concern.

I compliment the three Liberal members of Fairfield City Council. I think they have handled this matter well. They have not sought to exploit it or to use strong language such as "racism" because they do not believe that was warranted in this instance. Nevertheless, they do not think that Councillor Lawrence White has any community support for this harebrained proposal. I am of the view that he intended it to apply only to Cabramatta. In addition to that, he stupidly made some silly remarks to the effect that there was a need for Asian drivers to have special instruction. That was obviously not a very wise thing to say, but it would be going a bit far to say that it was racist.

Councillor White probably did not intend it to be so, so the Liberal councillors have attempted to handle this matter in as even-handed a fashion as possible. I believe they are to be commended for doing that. I join with the Hon. Dr Peter Wong in saying that Lawrence White has been something of an idiot and I think that, over time, he will probably regret having made that decision. I do not think a lot more time of the House needs to be taken up in considering this issue. For the benefit of honourable members, I thought I would explain the perspective that I have been able to glean from the three Liberal councillors on Fairfield Council.

**Ms SYLVIA HALE** [11.24 a.m.]: I believe the Hon. John Ryan is correct when he says that there are varying aspects to this issue, one of which is the behaviour of Fairfield City Council and the decisions it has made. The second, and I think more general, issue that should concern this House is racial vilification. It was not a case of just one slip of the tongue or one off-hand remark; it was a case, really, of Councillor White having consistently made racist remarks over a prolonged period. For example, on 30 November Councillor White said, as reported in the *Fairfield Advance* of 1 December, that Cabramatta motorists were the worst drivers in the world. He subsequently admitted that he was talking about the Asian drivers in Cabramatta. At that stage he said:

It's not the fact that there's lack of parking, it's the traditional way people drive and stop to let people out of the car that is causing problems.

It was pointed out to him that there is no evidence that members of the varying Asian communities out there have an especially bad record. His comments on 27 September were reported in an article in the *Fairfield Champion* of 5 October. The article stated:

Cr White, the Council's ALP caucus leader—

a person one might expect to have some notion of providing leadership within the community—

pointed the finger at Asian motorists after a report found more parking fines were being issued in Cabramatta than other suburbs. He has asked council staff to investigate the possibility of erecting parking signs in Asian languages in a bid to curb the problem.

"I was berated in this council and the local papers some time ago for commenting that people from South-East Asia were bad drivers," Cr White told the meeting. "Their driving has improved but their parking clearly has not."

They are racist generalisations, by any stretch of the imagination.

**The Hon. Peter Breen:** No they are not. That's ridiculous!

**Ms SYLVIA HALE:** You may say that is ridiculous but if you look at the media monitors and the way this debate has been reported, it was a field day for Ray Hadley and John Laws and the other shock jocks. They clearly picked up on it. Councillor White's remarks have given rise to this whole racist debate about whether people from South-East Asia should even be in this country. For example, on his program Ray Hadley read out an email from a fellow called Peter who said he heard of the Chinese language street names at Cabramatta and that the next vision is to flood the streets and grow rice. These are just racist slurs.

**The Hon. Peter Breen:** Yes, but Lawrence White did not make them.

**Ms SYLVIA HALE:** Lawrence White fed a view into this community that somehow you can denigrate an entire section of our community, and he did it from a position of ignorance. One of the things he said was that we should put up signs in Mandarin. There is no written form of Mandarin, and the statement ignores the fact that the majority of the population in that area speak Vietnamese, not Chinese. He demonstrates his ignorance of his own community. There is that aspect to it, which I believe is a deliberate provoking of racist overtones within the community, and playing on those sentiments that were espoused by Pauline Hanson a few years ago.

There is then the other aspect of how the council has responded to it. The local community were genuinely outraged and more than 1,000 people turned up to the council meeting. Seats were available in the gallery but only representatives of people who had attended the protest meeting were allowed inside. There were empty seats and yet many of the people who had expressed a view at the protest meeting were excluded. What happened? The protest group, who were protesting against what they see as vilification and the insulting of an entire community, wrote, through a solicitor, to the council, saying, "We would like to hold a protest meeting outside the council to coincide with the next meeting of Council"—which happens to be next Tuesday, 22 November. They did the right thing. They did their best to inform the council of what is likely to happen.

How did the council respond? Told by a large group of its residents that they want to turn up to the meeting, it responded by saying, "We don't authorise the demonstration. We are not going to provide any traffic control measures." Council knows full well that about 2,000 people will turn up to the council meeting, but it will not provide any additional seating or any additional toilet facilities. I find that reprehensible. I had the experience on Marrickville council where we had extraordinarily heated council meetings, where the council chambers were simply packed—

**The Hon. Amanda Fazio:** You didn't have 2,000 people turning up.

**Ms SYLVIA HALE:** But we had them spilling down the stairs; there were an enormous number of people. When it knew a lot of people would attend the meeting, the council, to give it its due, went out of its way to provide extra seating. It also provided additional attendants and so on to make sure the meeting was appropriately conducted.

**The Hon. Amanda Fazio:** How many people were there? Put a number on it.

**Ms SYLVIA HALE:** There were at least 1,000 people that I can remember. But we had several of these meetings because there was so much unhappiness about the way in which the mayor, Barry Cotter, conducted the meetings. As I said, on this occasion the council did the right thing. It knew that a lot of people would attend the meeting, and it acted appropriately. Here, Fairfield council is putting its head in the sand. It is denying the very existence of the huge outrage that has been generated within the Fairfield community. It is trying to pretend that if it somehow ignores it, it will go away. Obviously, that sort of response only causes a situation to fester and ferment. It does nothing to reassure the people of Fairfield that council in any way regrets the debate that has been occurring, or that it is in any way prepared to support the notion that Fairfield is an inclusive, multicultural community. All council seeks to do is distance itself and, by default, underwrite the racist interpretations that have been placed on Councillor White's remarks.

I believe there is every reason for us to support the Hon. Dr Peter Wong's motion. There is no doubt, regardless of whether we wish to pretend otherwise, that this is a question of racial vilification. It is also a question of the processes one should expect a council to conform to. I suggest that such racial vilification feeds in at a time when the Australian community is increasingly xenophobic. Sentiments of xenophobia—that anyone who comes from somewhere else is somehow foreign, and is to be feared and treated with suspicion—simply play into that mood within the Australian community, a mood that will be to the detriment of us all.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.33 a.m.]:** It is of concern that there may be racism in Australia, and I believe that the intolerance displayed by the Federal Government filters and encourages xenophobic types of comments. Racism in Fairfield has been stirred up, and there is certainly a

feeling among quite a lot of people, particularly Vietnamese people, that racist comments have been made by Councillor White. Certainly it has been reported as such in the media in the area. The aspects quoted by Ms Sylvia Hale relate to both the *Fairfield Advance* and the *Fairfield Champion*. Last year the *Fairfield Advance* reported:

The Fairfield Ward councillor called Cabramatta's motorists among "the worst drivers in the world ...

"It's not the fact there's lack of parking, it's the traditional way people drive and stop to let people out of the car that is causing problems," he said.

"If people change their (driving) practice, I'm sure it would improve the situation ..."

On 27 September 2005 the *Fairfield Champion* reported:

Cr White, the council's ALP caucus leader, pointed the finger at Asian motorists after a report found more parking fines were being issued in Cabramatta than other suburbs.

"He has asked council staff to investigate the possibility of erecting parking signs in Asian languages in a bid to curb the problem.

"I was berated in this council and the local papers some time ago for commenting that people from South-East Asia were bad drivers," Cr White told the meeting.

Their driving has improved but their parking clearly has not ...

The report made no mention of people of specific nationalities being booked.

But Cr White alleged the statistics pointed to a lack of understanding among Asian drivers.

"Perhaps we need to look at putting up some Asian sort of signs ... or colour coding them to try to change the driving and parking habits of people in Cabramatta," Cr White said.

The council has pointed out that parking infringements issued in Cabramatta for the financial year 2004-05 fell by more than 30 per cent compared with the previous financial year. Dr Thomas Diep, the President of the Cabramatta Business Association, argues that the lack of parking in Cabramatta and council's inability to provide more parking spaces, despite its increasing rates in 2001, is the main reason for the higher parking fines in Cabramatta. Dr Diep has called on Councillor White to resign. Many in the community feel they are being blamed, when it was council that was not providing enough parking spaces despite parking infringements issued dropping by more than 30 per cent. Others believe it is insulting that Councillor White thinks that Asian drivers, despite passing written and practical driving tests, could not understand simple signage in English, such as "No stopping" or "No standing". They also vehemently disagree with the statement that they are the worst drivers in the world.

The residents Action Group against Discrimination and for Parking organised a peaceful demonstration outside Fairfield council's full meeting on 18 October. As reported in the *Fairfield Champion* on 26 October, more than 1,000 residents protested and called for more parking, and for Councillor White to apologise or resign. The 1,000 protesters were excluded from council's meeting on the basis that the council chamber's public gallery has only a 32-seat capacity. There is to be a protest about this on 22 November, next week. The issue also came to the attention of the more widespread media. The daily media log of the 2UE Mike Carlton program reports:

Carlton says Lawrence White, a Labor councillor from Fairfield Council, wants parking signs to be written in Chinese. He says the parking of Asians has not improved and is driving parking rangers "off their feet". Carlton introduces Clr White. Clr White says they gave out 300 parking fines in Fairfield in the last 12 months and 2,441 in Cabramatta. He speculates that this could be because a large segment of the community do not know how to read the signs. He says it is not unusual to formulate a solution that is culturally based. He says they are still deciding as to what extra language to use because the area is culturally diverse. Carlton points out that the large Vietnamese population in Cabramatta do not read Chinese. Clr White says he appreciates that and they are still deciding. Carlton says they would have to put up a large number of languages to cater to all the cultures there. Clr White says they might also use a colour coding system on the pavements to indicate illegal parking areas. He says the RTA may not even approve the use of another language on the signs. He says they are conducting community consultations at the moment.

This would suggest that Councillor White is backing off, rather than modifying the situation. However, I have not spoken to Councillor White personally. I believe that people in public office should avoid making racist statements or statements that would appear to be racist because such comments set an undesirable tone. The people who rail against political correctness in some sort of boorish way by wanting the ability to make racist statements without being criticised—perhaps based on a slightly misguided notion about the right to say

anything—overlook the fundamental point of behaviourist psychology, which is that if you use certain language that depersonalises or demeans someone, it becomes accepted. Effectively, it sets the benchmark that the person or group is accepted as being so low that they can be defined as inferior in the common parlance.

**The Hon. Charlie Lynn:** What about giving an intellectual viewpoint?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The Hon. Charlie Lynn should give us the anti-intellectual viewpoint. We really need that here.

**The Hon. Charlie Lynn:** I'm trying to give you that.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Yes, the honourable member is. Looking at it in terms of a war, the idea is that the enemy is totally depersonalised, turned into something less than human, which allows one to kill them without considering the human aspects of war. Of course, that is an exaggerated situation. However, the points about racist slurs and language are important, and that is why this matter has been raised. Perhaps the answer here would be to provide better parking; no doubt the problem would be solved because many people are sensible and park properly if they possibly can. Most people living in Australia, of whatever race, try to obey its laws, and that is to be commended. But we must be careful about this. We should not simply rubbish the idea that racist remarks are okay. The matter must be taken seriously, and that is why the motion needs to be supported.

**The Hon. PETER BREEN** [11.41 a.m.]: This is one of the silliest motions I have ever heard since I have been a member of this House. It is neither a matter of public importance nor urgent. It is a parking issue. Why the council would waste—

**Reverend the Hon. Fred Nile:** It's a council issue.

**The Hon. PETER BREEN:** It is a parking issue that is being addressed by Fairfield City Council. It is extraordinary that this House would even bother looking at the matter. I had a call from Thang Ngo in relation to the meeting next week, but until I arrived at my office this morning I had no idea that the matter had taken on the proportions of a motion before the House. It has been sprung upon us in such a way that it does not even deserve consideration. Ms Sylvia Hale suggested that it has been picked up by 2UE and turned into some kind of race debate. If that is the case perhaps the motion should be amended to include the broadcasters at 2UE. If they are engaging in racial vilification or racist taunts to the community in Cabramatta, that is a different issue.

The issue before the House is the comments of Lawrence White about parking and his suggestion that the motorists of Cabramatta are amongst the worst drivers in the world. How that can be racist is an extraordinary conundrum as far as I am concerned. I was in Vietnam only a month ago. The drivers in Hanoi and Ho Chi Minh city are amongst the worst in the world that I have ever seen. However, I should qualify that by saying that they are the worst and the best in the world. They park anywhere; they park in driveways, on footpaths and on the side of the river bank. I am not surprised that the people of Cabramatta who come from that community do not think that parking is a big or important matter in their lives.

The only other place that I have seen such bad parking is in Rome. I can remember being on a bus going up the via della Conciliazione in Rome. The bus driver leaned out the window and asked a policeman, "Where will I park?" The policeman said, "Park over there." The bus driver said, "No, I don't want to go over there. I want to go over there." They had a big fight about where the bus driver should park. In the end the policeman threw his hands in the air and went and sat in a coffee shop. People literally parked everywhere. They drove into Vatican Square and parked up side alleys and on footpaths with diners. That is how people park in these cities. We should not turn this into some kind of debate about racism because Lawrence White said that the people of Cabramatta are amongst the worst drivers in the world. Indeed, he went on to qualify that by saying that their driving has improved but their parking has not—and I would not be at all surprised if that is true.

To say that Lawrence White's comments are racist, and to suggest that he is somehow responsible for the vilification of people in the Asian community, is simply to misunderstand what vilification really is. Indeed, it lowers the standard whereby people say things in this context that are not vilification. Those people are not racist. They are simply making a comment, expressing their view, as they are entitled to do, about the way a certain group of people park. There is nothing wrong with that. To label it as a form of vilification does not serve anybody. When true vilification does come along, true hatred, true hate speech, it is undervalued because



people say, "We say those kinds of things all the time." However, we do not say those kinds of things all the time. It is important to distinguish between fair comment and what one is entitled to say and things that are prescribed on the basis that they incite people to hate other people, particularly of other communities. So the motion is entirely unworthy both of urgency and as a matter of public importance, and it should be defeated.

**Reverend the Hon. FRED NILE** [11.45 a.m.]: I agree with the Hon. Peter Breen that we should not be taking the time of the House to debate this matter. However, I shall make some brief comments. The Christian Democratic Party is opposed to all forms of racial vilification. Indeed, I voted for the anti-discrimination legislation dealing with race. First, in relation to traffic problems, one simple solution would be to ensure that all drivers can and do read English and understand traffic signs before they get their car licence. Second, traffic signs should include the acknowledged international traffic symbols, especially for the many overseas drivers who may not understand English. They need to understand the international symbols that relate not only to parking but also to directions, speed and other important matters.

**The Hon. Dr PETER WONG** [11.47 a.m.], in reply: I thank honourable members for their comments. Some of them were pretty fair, and some disagreed with me. I also thank the Government for giving me the opportunity to debate the motion. While I accept that we all have good and bad politicians in our midst, be it in our community or in political parties, I must say as objectively as I can that for many years the Fairfield branch of the Australian Labor Party [ALP] has showed its failure to understand its community and indeed what multiculturalism is all about. What the ALP has done not only to the people of Fairfield but also to its own party is a disgrace.

Whether honourable members agree or not, this debate is urgent so that we can air the issues. First, the New South Wales drivers licensing system requires all candidates to pass written and driving tests in English. Therefore, there is no reason whatsoever to believe that anyone who passes the written and driving tests cannot speak or read English. Whether they are good or bad drivers is beside the point. Secondly, English is the national language. However, when language is used to incite disharmony and to stigmatise a certain community group, that is incitement of racism; it is racial vilification in the absence of evidence.

The Hon. Peter Breen may say that Asians are bad drivers. Not all Cabramatta people are Asian. On the Mike Carlton show Russians and Italians rang to ask whether the signs should also be in Russian and Italian. If that is not to be the case, Councillor Lawrence White is deliberately inciting racial intolerance. I would not call him a racist but that is the fact. Looking back to 1975, under the blessing and support of the Federal Liberal Government and Malcolm Fraser, more than 200,000 refugees came into Cabramatta and Fairfield. They went through a difficult time. There was chaos. A small town became a big town. There are traffic problems and even community problems.

Police problems led to the Cabramatta inquiry. However, the community has come a long way. Anybody would applaud the refugees for their achievements. More than 22 per cent of children of the Vietnamese settlers are university graduates. All political parties over the years, including the Prime Minister, have supported multiculturalism. We support cultural diversity and we are against any council or any individual, regardless of political party, who takes a racist stand against a community. The arguments presented by members today verify what I said in the beginning about the urgency of dealing with the racial issue of Fairfield City Council and intolerance. We urge the Government to act before the matter gets worse.

**Discussion concluded.**

## **COMPANION ANIMALS AMENDMENT BILL**

### **Second Reading**

**Debate resumed from 16 November 2005.**

**The Hon. DON HARWIN** [11.52 a.m.]: The Companion Animals Amendment Bill seeks to introduce amendments to the Companion Animals Act 1998 that will prohibit the selling, acquisition and breeding of restricted dogs in New South Wales. Further, it tightens the control requirements for restricted and dangerous dogs in the community and strengthens the enforcement powers available for their management. The proposed amendments are in response to the recommendations of the statutory five-year review of the Companion Animals Act 1998. They also follow the Government's announcement on 3 May 2005 that legislation would be introduced to ban restricted dogs in New South Wales, which are predominantly pit bull terriers. The term

"dangerous dog" applies to any specific dog that is the subject of a declaration by a council or a court that it is dangerous. The category of "restricted dogs" meanwhile is defined in section 55 of the principal Act and refers to any dog of a breed that is subject to an importation ban under Commonwealth legislation.

Restricted breeds of dogs are pit bull terriers, American pit bull terriers, Japanese tosas, Argentinean fighting dogs and Brazilian fighting dogs. The amendments proposed by the bill seek to enable councils to broaden the definition of "restricted dogs", extend the existing control requirements and enhance the effectiveness of the Act by strengthening the powers of councils in relation to enforcement and penalties. While the existing Act limits the trade in restricted dogs, this bill seeks to prevent the trade entirely by prohibiting the selling—including giving away—acquisition and breeding of restricted dogs. This tougher restriction will serve to effectively ban such breeds in New South Wales within the next few years. Furthermore, the bill seeks to enable councils to declare certain dogs to be restricted breeds for the purposes of the Act, principally crossbreeds of those dogs listed as restricted dogs. It is the hope of the Opposition that a significant broadening of the definition will not take place without proper community consultation as the subject of companion animals is a sensitive one affecting a large section of the population.

The bill provides that currently restricted dogs be desexed in line with current requirements that dangerous dogs be desexed within 28 days of being declared dangerous. Also, existing restricted and dangerous dogs will be the subject of additional control requirements. One example is that such dogs will have to be kept in an enclosure that complies with the requirements of the regulations. I note that we are yet to see these regulations and consequently cannot be sure exactly what is intended, although the shadow Minister has received an assurance from the Minister's departmental advisers that the standard will be more stringent than simply that the enclosure be childproof.

Other additional control requirements include making such dogs wear a prescribed, distinctive and highly visible collar; ensuring that they are appropriately and sufficiently muzzled and on a lead when outside their enclosure; and ensuring that people in control of such dogs are not responsible for more than two dogs simultaneously. In addition to prohibiting the trade of restricted breeds and tightening the control requirements pertaining to restricted and dangerous dogs, the bill seeks to strengthen the enforcement powers available to control all restricted and dangerous dogs as well as increase the maximum penalties for most of the offences under the Act. Under the existing Act council officers were empowered to seize dangerous dogs within four hours of a reported attack and were empowered to seize restricted dogs at any time if they were of the opinion that the control requirements could not reasonably be complied with at the premises where the dog was being kept.

The amendments proposed in the bill extend the council officers' existing power to seize restricted dogs on the basis of non-compliance with the control requirements to the seizure of the dangerous dogs on the same grounds regardless of whether or not there has been an incident. In cases where an attack takes place within the time frame within which a dangerous dog can be seized, the time is extended from 4 hours to 72 hours. In regard to the seizure of both dangerous and restricted dogs, the bill clarifies the right of authorised officers to enter any land for the purpose of exercising their powers and upholds the existing limitation of this entry power to land and not premises. Where entry to residential or business premises is required a police officer will still have to obtain a search warrant.

The maximum penalties for offences under the Act will be increased by up to three times. For example, the owner of a restricted or dangerous dog that attacks a person as a result of the owner's failure to comply with the control requirements can be fined \$55,000, imprisoned for two years, or both, and will be permanently disqualified from owning a dog. These amendments provide for the effective and responsible care and management of companion animals. As a result we will not oppose the bill. However, we have reservations about a couple of aspects of the bill. The first relates to the restriction of the right of appeal to the courts against a council declaration that a particular dog belongs to a restricted breed. Under the provisions of the bill a council is required to give a dog's owner notice of the council's intention. While the declaration is pending the dog must be effectively controlled and muzzled. The council is empowered to proceed with the declaration after 28 days unless the owner of the dog can produce a written statement by an approved breed assessor to the effect that the dog is not of a breed or kind on the restricted dog list, including a crossbreed of a restricted dog breed. The bill states:

A written statement provided by an assessor... cannot be challenged and any assessor who provides any such written statement does not incur any civil or criminal liability for doing so.

Of some concern, however, is that the bill also provides that a declaration by a council that a dog is a restricted dog is final and not subject to any review or appeal. Blocking an owner's right of appeal to the courts against a council declaration is somewhat troubling, especially as the burden of assessment falls on the owner rather than council and is subject to a limited period. As the process proposed in the bill involves the input of experts in dog breeds and temperaments, it is possible that some problems regarding interpretation and qualification may arise. Only time will reveal how well these arrangements work.

The Opposition's primary concern with this bill is that, once again, the Labor Government is cost shifting to local government. Whilst strengthening and clarifying the enforcement powers of council authorities this bill also introduces general duties for councils. These will require them to promote the requirements of the Act and take steps to ensure they are notified or made aware of the existence of all restricted or dangerous dogs in their local government areas. While the Government states it will establish statewide community education and council officer training programs to assist with the implementation of the bill, the majority of the cost of enforcing the new legislation will fall to local government.

**Pursuant to sessional orders business interrupted.**

### QUESTIONS WITHOUT NOTICE

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#### ANWAR HISAM AL BARQ PRISONS ACCESS

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Justice. Why has the Government failed to act for the last four years, allowing at least one individual with known associations with groups and persons linked to terrorist groups or activities unsupervised access to our prisons, given that the November 2001 report to Commissioner Woodham on gangs in our prisons recommended "fingerprint and intelligence checks be introduced on applicants for specified non-custodial positions which involve work locations inside the perimeter of maximum security gaols" due to "a level of vulnerability which may well prove to be unacceptable"?

**The Hon. TONY KELLY:** This issue was addressed at length yesterday. I again emphasise there is no direct evidence that Mr Al Barq had any direct link with extremist groups.

**The Hon. Michael Costa:** Who made him an Australian citizen?

**The Hon. TONY KELLY:** In 1994 Mr Al Barq was detained at Parramatta correctional centre in relation to an extradition request from the United States of America. He was extradited back to the United States in January 1995. He served a custodial sentence, for drug-related offences, of 30 months followed by three years supervised release. Upon his release it is believed that the United States Immigration Service revoked his residency visa. I am not aware of when or how he returned to Australia. In 2001 Mr Al Barq started as a volunteer chaplain. His application included a criminal records check. I am advised that Mr Al Barq claimed he did not have a criminal record. I am also advised that by varying his name the police check did not reveal his background. In 2002 he applied for Australian citizenship, which was granted in 2004.

**The Hon. Michael Costa:** Who granted that?

**The Hon. TONY KELLY:** In early 2004 Mr Al Barq went part time and in October 2004 he became a full-time chaplain nominated by the Islamic council and supported—

**The Hon. Michael Costa:** Who made him an Australian citizen?

**The Hon. TONY KELLY:** The Federal Government.

**The Hon. Michael Gallacher:** Point of order: Would you ask Minister Costa to stop continually interjecting, "Who made this person an Australian citizen?" as it is interrupting the Minister's answer.

**The PRESIDENT:** Order! I remind the Minister that interjections are disorderly at all times.

**The Hon. TONY KELLY:** In 2004 Mr Al Barq became a part-time chaplain and in October 2004 he became a full-time chaplain nominated by the Islamic council and supported by the Civil Chaplaincy Advisory

Committee. A further check at this time revealed what at first appeared to be immigration-related offences. Further investigations by the Department of Corrective Services started in co-operation with Federal authorities and then United States authorities. That revealed Mr Al Barq's criminal history.

However, the conclusion reached by the commissioner was that Mr Al Barq had misled the department and acted dishonestly, and he was banned as a visiting chaplain in New South Wales correctional centres. It is clear that the department needs to do more to ensure that people with rights to visit gaols have cleared comprehensive security checks. There are 83 prison chaplains working in the New South Wales corrective services system, of which 34 work full time. They are subject to police checks that are reviewed every two years. I am seeking advice to put in place further security measures. That may involve extending the security checks to other law enforcement agencies.

### **NSW FOOD AUTHORITY SEAFOOD CAMPAIGN AWARD**

**The Hon. KAYEE GRIFFIN:** My question without notice is addressed to the Minister for Primary Industries. Will the Minister update the House on the latest achievements of the NSW Food Authority?

**The Hon. IAN MACDONALD:** Since its creation in April 2004 the NSW Food Authority has been a leader in the field of food safety, regulation and education. It is the only agency in Australia with responsibility for food regulation across the entire food chain—or from paddock to plate. It also plays a key role in the education of consumers when it comes to issues surrounding food safety. Earlier this year the NSW Food Authority launched a major campaign as part of this community education role, which was aimed at providing reliable information on mercury levels in fish.

The campaign focused on dispelling some of the myths about this issue, while informing women about safe levels of seafood consumption during pregnancy and breastfeeding. It was a tremendous campaign, one that the Government fully endorsed and that was supported by a number of consumer, medical and industry groups, including the Australian Medical Association and the Australian Consumers Association. I am delighted to inform the House that the NSW Food Authority recently received a prestigious award reflecting the high quality of its mercury in fish campaign.

The authority was the worthy winner of the community communications award during the recent annual Public Relations Industry Association [PRIA] national golden target awards for excellence. Two weeks earlier the authority had already won the State award. It was a magnificent effort by the agency to win the national award. The awards highlighted the projects undertaken over the past year by government bodies and agencies, consultancies, businesses and community organisations. In bestowing the award on the NSW Food Authority, the organisers paid tribute to the balanced and informative message that was widely disseminated throughout the State.

Pre-campaign research found that many women were avoiding fish during pregnancy or breastfeeding because of misplaced concerns over high mercury levels. In fact, the vast majority of fish are perfectly safe for women in these categories. However, a few species of fish such as shark, swordfish and marlin may contain elevated levels of mercury. Consumption of these species should be limited by women who are pregnant, breastfeeding or planning to conceive, and also by children younger than six. The NSW Food Authority realised that many women were simply unaware of which types of fish to cut down on, so many of them were avoiding fish entirely during that time. It meant they were depriving themselves and their children of essential nutrients found in seafood such as omega-3 fatty acids, vitamin B12, iodine and high-quality protein.

In order to overcome this problem the Food Authority designed simple, easy to understand wallet cards that featured sound advice on how safely to include fish as part of a balanced diet during these life stages. Half a million of those cards were distributed in more than 6,000 outlets across New South Wales, including fish retail outlets, doctors, midwives and dieticians. Following the launch of the campaign in May, the Food Authority received maximum media coverage, allowing the message to be disseminated through metropolitan and regional media. In all, a potential audience of 1.5 million was reached as a result of the campaign, which all honourable members would agree is a fantastic result.

That PRIA award is a deserving recognition of the thought and hard work that went into ensuring women in New South Wales had access to reliable and important information. It is also an example of what can be achieved when government agencies, community groups and industry members work together to promote an important health message. I congratulate the staff of the authority on their excellent work in this campaign, in particular, campaign leader, Samara Kitchener, and wish them the best for future campaigns.

### ANWAR HISAM AL BARQ PRISONS ACCESS

**The Hon. DUNCAN GAY:** My question without notice is directed to the Minister for Justice. Exactly who in the Minister's department and office signed the approval earlier this year to allow unsupervised access to Muslim cleric Anwar Al Barq, despite internal intelligence reports confirming his "known associations with groups and persons linked to terrorist groups or activities"?

**The Hon. TONY KELLY:** My understanding is that it is not a process that is approved in a ministerial office. I am advised that, given that Mr Al Barq was for many years a volunteer, the Civil Chaplaincy Advisory Committee nominated him as a permanent chaplain. That committee normally does the approval and nomination.

### BALMORAL BOATSHED COMMERCIAL LEASE

**Ms SYLVIA HALE:** I direct my question to the Minister for Ports and Waterways. Will the Minister explain why the Government granted a new 20-year lease on the Balmoral Boatshed, without putting the lease out to public tender? What is the annual rent paid on the lease? What steps were taken to ensure that the rent is in line with market valuations? Given reports in the local media that the boatshed is up for sale, and expected to fetch more than \$5 million, was that important public asset effectively sold to the private sector for less than market value? What is the Government doing to ensure that does not happen again with other leases on boatsheds, moorings and jetties, especially those on Sydney Harbour, where values have increased dramatically?

**The Hon. ERIC ROOZENDAAL:** NSW Maritime, in conjunction with the Department of Lands, is reviewing commercial leasing tenure arrangements for the State's occupied wetlands and foreshore sites. The draft policy aims to balance certainty for marine owners and value for taxpayers. I have met with the Boating Industry Association and I understand a policy is being drafted, after consultation with industry groups and stakeholders, including the Sydney Harbour Maritime Forum, the Boating Industry Association, the Boat Owners Association and the Marina Association of New South Wales. It is about getting more sensible outcomes for New South Wales boaties and marina owners and at the same time preserving the valuable assets of people in New South Wales. I will take the issue raised by the honourable member on notice and come back to her with an answer.

### RURAL FIRE SERVICE CADET TRAINING

**The Hon. PENNY SHARPE:** My question is directed to the Minister for Emergency Services. Will the Minister inform the House what is being done to encourage young people to be involved with the New South Wales Rural Fire Service?

**The Hon. TONY KELLY:** I thank the honourable member for her inaugural question in this House. This gives me an opportunity to tell honourable members about an exciting new program created by the New South Wales Rural Fire Service. I note that Reverend the Hon. Fred Nile appears to be wearing a tie similar to the Rural Fire Service tie that I am wearing. New South Wales owes a great deal of gratitude to the men and women of our emergency services who work all year round to provide crucial community safety. Indeed, the vast majority of these men and women are volunteers who give of their spare time to provide the highest levels of emergency protection to the people of New South Wales. At present a group of them are fighting a fire that has been going for a couple of days. We are in their debt for their dedicated service. But we cannot be complacent. We need to look towards the next generation of volunteers. To that end, the Rural Fire Service has introduced a comprehensive cadet-training package for young people aged between 12 and 16.

This training package is delivered in three different ways. Firstly, a four-year training program covers not only the essential fire safety and fire prevention topics but teaches these cadets the necessary skills and competencies to become full members when they reach the age of 16 years. Secondly, a one-year program of training equips 15 and 16 year old cadets with all the basic skills to enable them to join the ranks of the Rural Fire Service as firefighters once they attain the minimum age of 16. Thirdly, a 10-week program in schools is run for students in year 9 that teaches all of the basic fire safety and skills. Recently I was privileged to attend a passing out parade of some of those school-based cadets, most recently at Kelso High School, with the honourable member for Bathurst, Gerard Martin, and the principal of that school. When I witnessed how enthusiastically those boys and girls embraced the training it made me very proud to be the Minister for Emergency Services.

The Iemma Labor Government has provided additional funds through the Office of Rural Affairs to the Rural Fire Service [RFS] to assist it to more widely implement this program. Currently students from the high schools in Forbes, Kelso, Parkes, Bingara and Moree are involved in the program. I am pleased to report that an additional six schools have indicated they want to participate in the program next year. Whilst young people have been associated with the RFS for many generations, it is only now that this comprehensive training package can be implemented through the provision of additional funds. It is vital that school students of today understand the fire threat that this country is prone to. It is particularly important given the staggering effects of global warming, which increases the severity and potential destructive force of bush fires across the globe. The cadet program will reap benefits for the community for decades to come, as the cadets become fully-fledged volunteers, ready to protect the community. We can guarantee that the RFS's proud tradition of being the world's largest and best volunteer firefighting service will continue.

#### ANWAR HISAM AL BARQ PRISONS ACCESS

**The Hon. JOHN RYAN:** My question is directed to the Minister for Justice. Did the commissioner approve the granting of unsupervised access to Muslim cleric Anwar Al Barq despite internal intelligence reports confirming his, and I quote, "known associations with groups and persons linked to terrorist groups or activities"?

**The Hon. Amanda Fazio:** Does the Hon. John Ryan pay the *Daily Telegraph* to do his research for him for question time?

**The Hon. TONY KELLY:** They get it wrong. I answered that question earlier. As far as I know he certainly did not.

#### FEDERAL GOVERNMENT INDUSTRIAL RELATIONS POLICY

**The Hon. GREG DONNELLY:** My question is addressed to the Minister for Industrial Relations. Will the Minister inform the House about the implications on New South Wales families of the industrial relations proposals of the Commonwealth?

**The Hon. JOHN DELLA BOSCA:** Yes, I will and I am very happy to do so. I thank the honourable member for his ongoing interest in industrial affairs. Honourable members would be well aware of the emphasis the New South Wales Government has placed on assisting workers as they balance work and family responsibilities. It was with dismay that today I heard on ABC Radio the Commonwealth Minister for Employment and Workplace Relations make the outrageous claim that the loss of penalty rates, long weekends and award protections about roster changes will aid the balance for work and family life.

Legislation that Kevin Andrews described as aiding the balance for work and family allows: rosters to be changed without notice; employees to work unlimited unpaid overtime during busier periods of the year; the majority of Australian workers to be legally dismissed at will; no penalty rates for working weekends, Christmas Day, Anzac Day or Good Friday; no loadings for shift work in the middle of the night; and the minimum wage to be assessed by bureaucrats with no consideration of the cost of living. Every independent assessment of the "WrongChoices" bill has found the lifestyle of Australian families will suffer under the Commonwealth's plan. Indeed, today 150 of Australia's leading labour market economists, industrial relations and employment law experts submitted a 57-page demolition of the Government's plans to the Senate inquiry into "WrongChoices". In a rare unanimous view they said:

... we share grave concerns about the historic and far-reaching changes now proposed for Australia's workplace relations and their potential effects on Australian workplaces, workers, and our larger society and economy.

The experts in the field include 30 professors and 28 associate professors, and they are not alone. Others who have expressed serious concerns, or outright opposition, include: most State Liberal Party and The Nationals leaders—except those in New South Wales—the Catholic Church, the Anglican Church, the Uniting Church, the Salvation Army, the sex discrimination commissioner, every State and Territory government, the National Welfare Rights Network, the Australian Council of Social Services, Unions NSW, the Australia Council of Trade Unions and the majority of Australians according to published opinion polls. One cannot honestly describe the loss of job security, take-home pay, rights and conditions that families have relied upon for generations as "family friendly policy". The Commonwealth needs to withdraw its legislation and start again. Australians will not forgive a Federal Government that arrogantly ignores the majority view and presses ahead with a political agenda that removes a fair go from the Australian culture, and damages the lifestyle of Australian families.

## MOTOR VEHICLE ENVIRONMENTAL PERFORMANCE STICKERS

**Reverend the Hon. Dr GORDON MOYES:** I direct my question to the Special Minister of State, representing the Minister for the Environment. Is the Minister aware of the Australian Government's Green Vehicle Guide, which provides information about the environmental performance of vehicles, and forms the basis of New South Wales clean car benchmarks? Is the Minister aware that the New South Wales Government's green car sticker on new cars, which is based upon those benchmarks, only identifies vehicles with significantly above average environmental performance? Will the Government extend this labelling system to include an emissions rating on all vehicles to allow consumers to compare the environmental performance of all new vehicles in the same way as is done with dishwashers and other electric appliances?

**The Hon. JOHN DELLA BOSCA:** I am not sure that this question relates solely to the portfolio of the Minister for the Environment; it may relate also to Fair Trading. However, I will ascertain from the Minister for the Environment the appropriate answer as soon as practicable.

## ANWAR HISAM AL BARQ PRISONS ACCESS

**The Hon. CATHERINE CUSACK:** My question without notice is directed to the Minister for Justice. What political pressure was exerted on the Department of Corrective Services to grant unsupervised access to Muslim cleric Anwar Al Barq despite the concerns of departmental officers and internal intelligence reports confirming his "known associations with groups and persons linked to terrorist groups or activities"?

**The Hon. TONY KELLY:** That answer is simple: none. You obviously believe what you read in the paper.

## FERAL ANIMAL CONTROL

**The Hon. CHRISTINE ROBERTSON:** My question is directed to the Minister for Lands. Can the Minister tell the House what the Government is doing to reduce pest and feral animal numbers on Crown land?

**The Hon. TONY KELLY:** All members will acknowledge the major and ongoing threat posed by pest animals. The Iemma Government is committed to working with councils, private landholders and the broader community in tackling the significant threat posed by feral and other pest animals. This commitment is backed by funding of over \$190,000 this year for the control of pest and pest animal outbreaks on Crown land. A further \$100,000 has been set aside as part of our strategic approach to nipping infestations in the bud as they arise over the course of the year. The funds are part of a \$2 million targeted program focused on tackling specific weed and animal pests on public land over four years.

A total of 44 different pest control projects will receive funding under this initiative: \$166,000 will be targeted to various programs across rural and regional New South Wales; some \$51,100 for central New South Wales; \$75,800 for the southern region; \$24,600 for the northern region; and \$14,500 for the Far West. Rural lands protection boards, trusts, local councils, government agencies and community groups will carry out the projects. These programs will be integrated with new and existing natural resource management plans. In addition to the traditional programs targeting foxes, pigs, rabbits and feral cats, this year programs include targeting new and increasing threats such as cane toads.

Besides our ongoing commitment to country New South Wales, the Iemma Government is working closely with local metropolitan councils in tackling specific pests in the Sydney Basin. It is part of our \$24,000 commitment for the Sydney and Hunter regions. Pittwater Council, for example, has been offered \$5,000 towards the control of the rabbit population in the area. Rabbits have degraded and limited the regeneration of the sensitive native vegetation on North Narrabeen, Turimetta and Mona Vale headlands. They also pose an indirect threat to animals such as the long-nosed bandicoot, which exists in small cells along the northern beaches. Also, \$8,000 has been allocated to Sutherland Shire Council for its fox and deer control programs. The wild deer population has been responsible for the degradation of a range of vegetation types within the Sutherland shire, or God's country, as some would prefer it to be known. Current estimates suggest there are up to 3,000 deer in the area of the Royal National Park and the surrounding urban areas.

Of particular concern is the damage that deer are causing to already endangered communities of plants including littoral rainforest, Kurnell dune forest, Sydney freshwater wetlands and the coastal saltmarsh in the shire. The control of fox numbers is also of high priority in the Sutherland shire. Besides the threat to our own

fauna, foxes pose a significant threat to many migratory birds. One of the key aims of the fox threat abatement plan for the area is to significantly reduce the number of foxes during the summer season, which sees the little tern migratory bird nest on our shores. Foxes have been recorded as the major source of egg loss for the little tern, which is listed as an endangered species. I am sure all members will welcome the news of this important and ongoing commitment of the Government to fight the scourge of pest animals throughout the State.

*[Questions without notice interrupted.]*

### **DISTINGUISHED VISITORS**

**The PRESIDENT:** Order! I welcome to the President's Gallery a delegation from the Senate of Canada led by Senator George Furey, together with the Clerk of the Senate of Canada, Mr Paul Bélisle.

### **QUESTIONS WITHOUT NOTICE**

*[Questions without notice resumed.]*

### **PUBLIC SCHOOLS SCIENCE CURRICULUM**

**Reverend the Hon. FRED NILE:** I direct my question without notice to the Special Minister of State, representing the Minister for Education and Training. Has scientific evidence proved that in spite of a world population of over six billion people, each human being has unique fingerprints, DNA, et cetera? Has intelligent design, which has been supported by world-famous scientists, such as Bacon, Boyle, Einstein and many others, been scientifically proved by the intricate design of the human bacterial flagellum, DNA, eyes, et cetera, which cannot be explained by accidental or chance evolution? Are the claims that over 70,000 science teachers oppose intelligent design false, as it was simply an opinion of the executive committee and no surveys of its members have been conducted? Will the Government permit intelligent design to be scientifically considered by high school students in science classes in association with the current presentation of the theory of evolution?

**The Hon. JOHN DELLA BOSCA:** I am not sure that my ministerial responsibilities include theological matters.

**The Hon. Michael Gallacher:** You did not do too badly in your maiden speech, though.

**The Hon. JOHN DELLA BOSCA:** I thank the Leader of the Opposition for his compliment.

**The Hon. Michael Gallacher:** We have never forgotten that. What was her name? Barbara Tuchman?

**The Hon. JOHN DELLA BOSCA:** Yes. Obviously, the matters raised in the question require serious reflection on the part of the Government. The question is somewhat loaded in that I do not think that the decisions the honourable member is speaking of necessarily form a view about the philosophy behind the notion of intelligent design. It is a matter of philosophy rather than a matter that can be taught as part of a science curriculum. That is where the fundamental confusion has existed. I do not think anybody would want to draw the conclusion that the Government or anybody else has taken a position on how the universe may have come into existence. The position of the curriculum authorities is one that has a high degree of legitimacy and obviously is subject to community scrutiny. Because it is subject to legitimate community scrutiny, which the member's question seeks to agitate, I will obtain a formal and more complete answer from the Minister for Education and Training.

### **ANWAR HISAM AL BARQ PRISON CHAPLAINCY SERVICES REMUNERATION**

**The Hon. GREG PEARCE:** I direct my question without notice to the Minister for Justice. Can the Minister inform the House what remuneration, including reimbursement of expenses, was paid to Anwar Al Barq for providing chaplaincy services to the Department of Corrective Services? Will the Minister also provide details to the House of which people within the organisation he referred to earlier in question time were listed by Mr Al Barq as referees or made the nomination in his application for this position, whether there were any other referees, and their names?

**The Hon. TONY KELLY:** I thank the honourable member for his question, which provides an opportunity for me to spell out the process. The Civil Chaplaincy Advisory Committee provides religious



support for New South Wales correctional centre inmates. The Crimes (Administration of Sentences) Regulation makes specific provisions for chaplaincy services and chapels in all correctional centres. Chaplains actively involve themselves in case management procedures and contribute advice regarding inmate case management, where appropriate. There are currently 83 chaplains ministering in New South Wales correctional centres—34 full-time and 49 part-time. Chaplaincy is predominantly provided from the Christian tradition reflecting the distribution of religions nominated by offenders on reception. However it is an interfaith service with Jewish, Muslim and Buddhist chaplains working as part of the team.

The annual allocation for the Civil Chaplaincy Advisory Committee is approximately \$2 million, of which around \$65,000 per annum is allocated to rent assistance, equipment maintenance and travel expenses for the co-ordinator and the administrator. The department's annual allocation for Chaplaincy is paid by subsidy to member religious organisations of the Civil Chaplaincy Advisory Committee. Chaplains are employed by their respective member religious organisations and not by the department directly. However, Chaplains are regarded as members of the staff.

### CATCHMENT MANAGEMENT AUTHORITIES FUNDING

**The Hon. EDDIE OBEID:** My question is addressed to the Minister for Natural Resources. Will the Minister please update the House on the latest funding provided to landholders by local catchment management authorities for natural resource improvement?

**The Hon. IAN MACDONALD:** Catchment management authorities [CMAs] play a vital role in managing our State's natural resources such as land, water and vegetation. Each CMA has carried out extensive community consultation with local people to determine the priorities for managing natural resources in the catchments. Incentive funding is also available for the CMAs to distribute to landholders and land managers for works to improve the environment and promote sustainable farming practices. The New South Wales and Commonwealth governments have committed more than \$436 million over four years for these works to be carried out, a significant investment in improving our landscape and land management practices. But importantly, the decisions on where the money should go is made by the local staff of each CMA, people with specialist knowledge who understand the priorities and needs of their region. For example, earlier this week I announced that landholders in the western CMA will benefit from \$2.2 million in funding for on-the-ground works.

The western catchment covers a vast area of the State, stretching from Walgett in the north-west, out to Broken Hill and up to Tibooburra. It is an extraordinarily diverse area, taking in the mighty Darling River and its tributaries, and is facing its own unique mix of natural resource management issues. The western CMA has determined that the six priority areas to receive funding should be native pasture recovery, riverine habitat, pest management, high-value ecological communities, sustainable agriculture and water quality. I advise honourable members that 62 landholders in the area have been successful in applying for incentive funding to carry out projects that address these priorities.

For example, more than \$850,000 has been committed to 25 landholders in the catchment to go towards native pasture recovery across an area of 2,883 square kilometres—more than four times the size of the Australian Capital Territory. More than \$400,000 will go towards projects carried out by 13 land managers to improve riverine habitats along the Barwon-Darling, Paroo and Culgoa rivers, among others. Another \$385,000 has been committed to 11 land managers for programs to reduce the numbers of feral plants and animals. More than \$270,000 will go to nine landholders who have responsibility for managing populations of endangered and vulnerable native species, such as yellow-footed rock wallabies. These projects are all immensely important in ensuring the health of the catchment, protecting native plant and animals species, minimising the damage caused by invasive species, and promoting sustainable agriculture.

It is a fantastic example of the type of work being done by the CMAs across New South Wales. For example, in the Hawkesbury-Nepean area total funding of nearly \$15 million was announced earlier this month for a range of projects to improve the environment in the catchment. This included \$5.4 million for improvements to weed control, native vegetation, bush regeneration, and erosion control in the Lithgow, Southern Highlands and Goulburn regions. On a smaller scale, all the CMAs are providing funding commitments to specialised, local projects across the State. For example, in the southern region the Murray CMA has joined forces with the shires of Jerilderie, Conargo and Wakool, and the Central Murray County Council, in a \$250,000 program to control African boxthorn across the catchment.

Since the CMAs were formed last year, they have played an active role in providing information, advice and funding to farmers across New South Wales on the sustainable and sensible management of our land, water and native species. The CMA system demonstrates the benefits of removing these decision-making processes from a city-based bureaucracy and into the hands of local people, who are in the best position to plan for the long-term environmental health of our State.

### CROSS-CITY TUNNEL CONTRACT

**Ms LEE RHIANNON:** I direct my question to the Special Minister of State, representing the Premier. Is the Premier aware that Roads and Traffic Authority [RTA] executives had discussed the idea of buying back the cross-city tunnel, and consider that the Government is stuck and cannot reverse road closures designed to funnel traffic into the tunnel without facing a compensation bill of \$990 million? Will the Premier explain why the RTA accepted what it now admits are pie-in-the-sky traffic predictions of 90,000 cars per day as a basis for this deal? Will the Premier seek new, independent legal advice from the Government's solicitors considering Greens advice supported by eminent emeritus law professor Tony Blackshield that parts of the cross-city tunnel contract may well be unlawful and therefore unenforceable, and that this could be a less expensive way out of what is fundamentally a botched deal?

**The Hon. JOHN DELLA BOSCA:** I disagree with the honourable member's fundamental premise. As I have said on several occasions in this Chamber, it is my view, and remains my view, that the cross-city tunnel is an outstanding piece of infrastructure. It will stand Sydney in good stead for a very long time and it has been achieved at no cost to the taxpayer. The issues that have been the subject of public agitation and concern are legitimate—in the case of the honourable member, for her own and probably, in her terms, good ideological reasons; and, in the case of those opposite who are interjecting, for naked and foolhardy political opportunism. I once again thank the honourable member for the question. I note that I am not allowed to give her legal advice but she is allowed to give me legal advice in her questions. I will ask the Premier for a fuller response to her question and I will provide that to her as soon as I can.

### ANWAR HISAM AL BARQ PRISONS ACCESS

**The Hon. DON HARWIN:** My question without notice is directed to the Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs. Why did the Minister say in his press conference yesterday that it took the services of an expert in Middle Eastern names to determine that Al Barq had used an alias in his application, when in fact it was the changing of his name by just one letter, from El Barq to Al Barq, that apparently fooled the Government—hardly a sophisticated method of disguise?

**The Hon. TONY KELLY:** I have answered that question already.

**The Hon. Duncan Gay:** Point of order: The Minister is misleading the House.

**The PRESIDENT:** Order! There is no point of order.

**The Hon. Duncan Gay:** Well, he said he had answered the question and there has been no question of any similarity.

**The PRESIDENT:** Order! I remind members that the basis for a point of order cannot be that a member is misleading the House.

[Interruption]

**The PRESIDENT:** Order! I call the Deputy Leader of the Opposition to order.

### FERGUSON LODGE, LIDCOMBE

**The Hon. AMANDA FAZIO:** My question is directed to the Minister for Disability Services. Will the Minister outline what the Government is doing to assist Ferguson Lodge residents?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for her question and for her ongoing interest in disability matters. Ferguson Lodge is home to 24 people with disabilities who experience a

range of severe spinal injuries, including paraplegia and quadriplegia. Ferguson Lodge is located at Lidcombe and managed by ParaQuad, a non-Government organisation. Ferguson Lodge is located on a section of Crown land that is subject to the sale and development of residential housing. The current buildings require substantial capital expenditure to improve conditions. ParaQuad proposed the development of a new Ferguson Lodge. The proposed relocation caused the residents some anxiety about their future accommodation and care.

**The Hon. John Ryan:** Some anxiety!

**The Hon. JOHN DELLA BOSCA:** I note the Hon. John Ryan's interjection. The residents wrote to me seeking assistance so they could continue living together. Many of the residents at Ferguson Lodge have lived there for many years, and they have made friendships and formed strong links with the local community. They want to continue living as a larger group, rather than devolve to smaller group home accommodation or independent living. In addition to the attachment they have formed together, they have also made the case that as a larger group they have access to 24-hour nursing assistance, and a greater level of freedom than would be possible in a smaller domestic setting.

Following negotiations with ParaQuad and the residents, the Government has brokered a practical and compassionate solution. Yesterday I wrote to ParaQuad and the residents, assuring them that they would have a permanent place at the new Ferguson Lodge. As part of the agreement, the department has provided ParaQuad with confirmation that it can transfer its existing funds of more than \$2.4 million to the new facility, as long as it continues to provide accommodation for the existing residents. I note that Ferguson Lodge residents have been very concerned about their future residential arrangements. I also know they are very pleased with this solution. I would like to thank ParaQuad for its assistance and willingness to work co-operatively with Government and the residents to find a solution that works for all parties. The needs of people with a disability are a priority of the Iemma Government. This financial year the Department of Ageing, Disability and Home Care has a record budget of almost \$1.55 billion.

*[Interruption]*

I am glad the Hon. John Ryan thinks it is a laughing matter. Since coming to office, the New South Wales Government has more than doubled funding for disability services.

### PLUMBING AND DRAINAGE CODE OF PRACTICE

**Mr IAN COHEN:** My question is directed to the Minister representing the Minister for Energy and Utilities. Is the Minister concerned that the draft New South Wales code of practice for plumbing and drainage could dramatically add to the cost of the use and installation of rainwater tanks? Why has the draft code—which the public has been given only two months to comment on—been developed without consumer or non-government organisation representation, while those with an interest in promoting the use of the reticulated water system have been well represented? Why has there been no financial assessment of the effect of the new code? Is it true that the new requirements contained in the draft code, relating to the way plumbers must install rainwater tanks, could add between \$500 and \$1,000 to installation and further maintenance fees of about \$150 per annum? Does the Minister recognise that the new code has the potential to increase the monopoly power of Sydney Water undermining competition in the sector? Will the Minister assure the House that there will be no additional costs whatsoever as a result of the new code for consumers wishing to use or install rainwater tanks?

**The Hon. ERIC ROOZENDAAL:** I thank Mr Ian Cohen for his question. I will pass it on to the Minister for Energy and Utilities and obtain an appropriate response.

### MINE SAFETY LEVY

**The Hon. MELINDA PAVEY:** My question without notice is directed to the Minister for Primary Industries, and Minister for Mineral Resources. How does the Minister justify his recent decision to lump the New South Wales mining industry with yet another industry levy for mine safety, a levy of \$13.55 million per annum, when the New South Wales Government collected \$396 million in coal royalties last financial year? Is it a fact that Coal Services Pty Ltd—whose board is controlled by the Construction, Forestry, Mining, and Energy Union—will collect this money? Is this in line with the mine safety review recommendations of former Labor Premier Neville Wran? Further, what audit process will be put in place to ensure this money is directed into mine safety for the benefit of mine workers, as the Minister says will occur?

**The Hon. IAN MACDONALD:** It is good to see that The Nationals are up to speed on these issues. This was covered in the *Financial Review* some two weeks ago, and The Nationals are now all fired up. To dispel the Hon. Melinda Pavey's apprehensions, the legislation will be debated in this House very shortly and everyone will have a the opportunity to look at it in detail. I believe it is important legislation. I make it very clear that the moneys will be held in a trust, and that Coal Services is simply a vehicle for the collection of the levy. An advisory committee comprising leading members of the mining industry will have the power to scrutinise entirely the operation of that trust and the expenditure of the moneys. The purpose of the levy is to bring the industry into line with all the other industries that, through their premiums, contribute to the operation of WorkCover, and to ensure that funding for the important issue of work safety is contributed to by the industry.

Yes, there has been an increase in the coal royalties in recent times, but I do not think that will last forever. We have a good resource boom at the moment: many countries are purchasing Australian coal, particularly from New South Wales, which is the second-largest coal exporter in the world after Queensland. I have discussed the legislation with representatives of the Minerals Council, who understand the intent of it. The Minerals Council will have full scrutiny of the legislation. The mine safety record of New South Wales is exemplary: there has not been a death in the coal industry for about 18 months. Indeed, we have the most envied mine safety system in the world. The Hon. Melinda Pavey can rest assured that the levy will ensure that we continue to have no fatalities and no serious injuries in the New South Wales coal industry.

### WORKCOVER BUSINESS ASSISTANCE UNIT

**The Hon. HENRY TSANG:** My question is addressed to the Minister for Commerce. Will the Minister advise the House about WorkCover initiatives to help small and medium businesses fulfil their workplace safety and injury management obligations?

**The Hon. JOHN DELLA BOSCA:** The Government recognises that many small and medium-size businesses need help in making their workplaces safer, and in fulfilling their workers compensation obligations. Members will recall that in February this year I launched the WorkCover Business Assistance Unit to provide even better, more tailored assistance and advice to small and medium-size businesses.

**The Hon. Catherine Cusack:** An Orwellian name.

**The Hon. JOHN DELLA BOSCA:** That's not original; the member stole it from me. In essence, the unit is an extension of WorkCover's highly successful Small Business Strategy, which provided general advice and education to small business owners and operators. The specialist role of the Business Assistance Unit is to identify and focus on the specific workplace safety challenges facing small and medium-size businesses. Since its inception, the Business Assistance Unit has been actively and successfully engaging businesses throughout the State. Already the unit has conducted a successful statewide workshop program that has included more than 130 workshops throughout regional, rural and metropolitan New South Wales, attended by more than 2,000 people.

Today the Business Assistance Unit is conducting a seminar in Tamworth to explain changes to the workers compensation premiums collection system. The seminar will allow employers to hear information about the 5 per cent reduction in premiums—5 per cent across the board. It will also provide for discussion about the 5 per cent benefit enhancement for serious spinal injuries, and about changes that will ensure that when a claim is made it will impact on the following year's premium for the largest 8 per cent of businesses in the State. Ninety-two per cent of businesses will be protected from such an increase.

This week seminars are also being held in Hurstville, Rozelle and Griffith. The unit has also been holding safe business advisory days, in conjunction with local chambers of commerce and other agencies. These advisory days provide business owners and operators with both workshops and one-on-one sessions with Business Assistance Unit advisory officers and inspectors from local offices. They also provide them with practical and helpful advice regarding safety and compensation issues, and allow them the opportunity to network with other members of their local business community. Recently I attended the inaugural Safe Business Advisory Day at Penrith with Karyn Paluzzano, the honourable member for Penrith, and can confirm the positive reception given to the concept by attendees.

**The Hon. Michael Gallacher:** I don't know who she is either.

**The Hon. JOHN DELLA BOSCA:** A lot of people in Penrith know who Karyn Paluzzano is.

**The Hon. Michael Gallacher:** I was out there last week, and they didn't know who she was.

**The Hon. JOHN DELLA BOSCA:** They don't know who you are.

**The Hon. Michael Gallacher:** Oh, they knew me.

**The Hon. JOHN DELLA BOSCA:** No, they don't. And if they do know you, they don't like you. The unit is also preparing for the launch early next year of a Regional Road Show (Safety Bus), which forms a plank in the \$2.6 million rural safety package announced by Premier Iemma at the 2005 Workplace Safety Summit in Orange.

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

**The Hon. JOHN DELLA BOSCA:** Also forming part of the package are additional regional advisory officers for WorkCover offices in regional areas.

I can advise that the recruitment process for the new business advisory officers is well under way. As can be seen, the Business Assistance Unit has been at the forefront of measures put in place by this Government to help small- to medium-size businesses help themselves when it comes to workplace safety and injury management. By working collaboratively with employers and workers, we will continue the reductions in the incidence of accidents, injuries and fatalities in New South Wales workplaces, the responsible and affordable reductions in premiums, and the enhancement of benefits for injured workers.

#### **PUBLIC DENTAL HEALTH SERVICES**

**Ms SYLVIA HALE:** I direct my question to the Special Minister of State, representing the Minister for Health. Is it true that some area health services have created a new term known as an "expression of interest" when people inquire about being treated by public dental health services? Is this term being used so that inquiries do not appear in public records as "occasions of service" and is in fact being used as a mechanism to direct people off waiting lists? When potential patients call to inquire about being treated by public dental health service, are they being made aware that they are not placed on the waiting list but, instead, are recorded as an expression of interest?

**The Hon. JOHN DELLA BOSCA:** I am familiar with the term "expression of interest" but not in relation to dentistry. I am even less familiar with the other term, "occasions of service", used by the honourable member, although I understand it to be formal terminology in health services. I empathise with Ms Sylvia Hale's concern about people who require public dental services, but the obvious point needs to be made. If the Commonwealth Government worried about those parts of the Constitution for which it is responsible, instead of the parts for which the New South Wales Government is responsible, perhaps we would get a much better result and some collaboration in delivering much-needed services to people in New South Wales and, for that matter, throughout the Commonwealth. I take the honourable member's point that there needs to be transparency in the services that are provided, despite the Commonwealth cutting the dental program and the impact of that on public health across Australia, including New South Wales. I will take the rest of the honourable member's question on notice and ask the Minister to give her a reply as soon as practicable.

#### **PIG INDUSTRY WORKERS COMPENSATION PREMIUMS**

**The Hon. DAVID CLARKE:** My question without notice is directed to the Minister for Industrial Relations. Is the Minister aware that New South Wales pig farmers in general pay much more in workers compensation premiums than are paid out in claims from their workers? Is the Minister further aware that one North Coast pig farmer has paid \$1,332,918 in workers compensation premiums in the past eight years, with payments for workers compensation claims amounting to only \$261,874 over the same period—a difference of \$1,071,000? How does the Minister justify what amounts to a tax on the New South Wales pig farming industry? What other primary industries are similarly subjected to this inequitable treatment?

**The Hon. JOHN DELLA BOSCA:** I am pleased that another member of the House has developed an interest in workers compensation and workers compensation premium calculations. I wonder whether the Hon. David Clarke is having a Gadarene swine moment. When I was given responsibility for this portfolio I was often asked when there would be another premium increase. That was an assumption in the community. With rising costs and an increasing deficit, the pressure on premiums was upward. As a result of the Government's 2001 reform legislation, which was opposed by the Opposition, and the ongoing effort to improve value for

employers and injured workers, times have changed. The WorkCover balance sheet is the strongest it has been for more than a decade, and costs, delays and disputes have significantly reduced. Employees in New South Wales will benefit from the 5 per cent reduction in WorkCover industry classification rates from 31 December. In relation to the specifics of the honourable member's question about the pig industry, I make the point that one reform we introduced was to change or widen the number of categories for industry to make fairer the premium category calculation by industry. That was the Australian and New Zealand standard industrial classification [ANZSIC] series of reforms, which I think were opposed by the then shadow Minister, but I do not actually recall. He might be able to clarify that for us.

**The Hon. Duncan Gay:** Be careful that you do not mislead the House.

**The Hon. JOHN DELLA BOSCA:** I do not think I am. I said "I think". I cannot actually remember. Perhaps I am being unfair to the Leader of the Opposition; perhaps he supported the ANZSIC code introduction, which addressed the general problem that the Hon. David Clarke has asked about. As for the pig industry, I do not have the information available to me. I will attempt to get further information about the specifics of the pig industry and the Australian and New Zealand standard industrial classifications to which the industry is subject, and get a fuller explanation for him.

### PEST ANIMAL CONTROL

**The Hon. PETER PRIMROSE:** My question is addressed to the Minister for Primary Industries. Will the Minister update the House on efforts to fight pest animals and the impact such animals have on our landscape and our production industries?

**The Hon. IAN MACDONALD:** As honourable member's may be aware, more than 80 introduced species have established wild populations in Australia. Approximately 30 of these have become pests. After habitat loss, invasive species are the greatest threat to our unique biodiversity. The consequences of invasive animals on industry are considerable. Invasive animals attack native wildlife and livestock, spread weeds and livestock diseases, damage water courses and wetlands, cause flock damage, pose exotic disease risk, can cause soil erosion and land degradation, and compete for pasture. In fact, the combined social, economic and environmental costs of our most serious invasive animals have been estimated to cost Australian industries at least \$720 million per annum.

To help tackle this problem, governments and other agencies nationwide have joined forces to develop a co-ordinated approach through a new invasive animals co-operative research centre [CRC], which began operation in July. The CRC's main headquarters are located in Canberra, with 40 Australian and international governments and agencies working together to tackle the issues of invasive animal control. The New South Wales Department of Primary Industries [DPI] is one of those key partners. Indeed, last week I launched the New South Wales component of this important new centre, which will be based in Orange. The New South Wales node of the centre will develop new strategies to reduce the impact of pest animals, work to reduce the spread of carp and other pest fish species in inland waterways, provide community education and training, and investigate more humane methods of eradicating feral animals.

In fact, the department's veterinary testing research unit at Orange has a long and successful history in invasive animals research, making it an ideal partner for this national research effort. The unit's grassroots program and cutting edge research ensure that its work targets real needs. Staff from the department will work within the invasive animal CRC to develop strategies to combat our pest animal problems and provide synergies between the work of the centre and the DPI. The total commitment from the State Government will be \$2.4 million over seven years. The collaboration between landholders, community members and the Government is a commonsense approach to tackling environmental problems.

The invasive animals co-operative research centre will bring long-term benefits to landholders and the economy. More importantly, its work will help to protect Australia's unique biodiversity for future generations. The CRC and the New South Wales node in Orange are important steps in tackling the problem of invasive pests, and I am proud of the role that New South Wales has played in bringing this venture to life. I refer to the Hon. Tony Kelly's earlier answer about pest management control on Crown lands. I am sure we will be working with his department to enhance and improve our methodologies for eradicating pests from the landscape.

### PUBLIC TRANSPORT TICKETING SYSTEM

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** My question is addressed to the Minister for Ports and Waterways, representing the Minister for Transport. Under the new ticketing system, will each fare be charged at the same rate as a single cash fare? Will discounts be available for multiride pre-purchased tickets,

such as the current travel tickets for buses and FerryTen tickets for ferries? If so, how will the discounts be calculated? Will point-to-point rail weeklies, quarterlies, et cetera still be available? If so, how will the discounts be calculated? Will zone tickets such as travelpasses and daytrippers still be available? If so, how will the fares be charged? If a bus journey equivalent to four sections must be taken on two buses because a change is necessary, will the flag fall be charged twice? That is, will the fare be twice the two-section fare—\$1.60 times two—or will it be equivalent to a four-section fare of \$2.70?

**The Hon. ERIC ROOZENDAAL:** That is a very important question in relation to the new transport ticketing system that has been announced by the Minister for Transport. The honourable member has raised a number of important issues that require careful consideration in relation to fares, particularly discounts for multi-ride pre-purchased tickets such as the TravelTens and FerryTens. Discounts need to be carefully considered and calculated out. The availability of point-to-point railway weeklies and quarterlies is also important.

**The Hon. Michael Gallacher:** You can see Eric travelling on public transport—not!

**The Hon. ERIC ROOZENDAAL:** I have taken more trips on public transport than you have. My children love to go on a bus. The calculation of discounts and the availability of tickets such as daytrippers are also very important questions. I appreciate the question from the honourable member and I will refer it to the Minister for his careful consideration and appropriate response.

**The Hon. JOHN DELLA BOSCA:** I suggest that if honourable members have further questions, they place them on notice.

#### DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

##### F6 MOTORWAY PROPOSAL

On 12 October 2005 the Hon. Michael Gallacher asked the Minister for Finance, Minister for Infrastructure, and Minister for the Hunter, representing the Minister for Transport, a question without notice regarding the F6 motorway proposal. The Minister for Transport provided the following response:

The NSW Roads and Traffic Authority has been asked to maintain the F6 transport corridor to sufficient capacity for possible future transport development, which could include a dual carriageway road. The Government has not made a decision with regard to a proposed road within the corridor.

##### CROSS-CITY TUNNEL

On 12 October 2005 the Hon. Don Harwin asked the Minister for Finance, representing the Minister for Roads, a question without notice regarding the cross-city tunnel. The Minister for Roads provided the following response:

The Cross City Tunnel consortium announced a number of concessions including:

- toll-free use of the Cross City Tunnel from 24 October to 13 November 2005; and
- the removal of a number of administrative fees.

##### CAREEL BAY MARINA PROPOSAL

On 13 October 2005 Reverend the Hon. Fred Nile asked the Minister for Finance, representing the Minister for Planning, a question without notice regarding the Careel Bay Marina proposal. The Minister for Planning provided the following response:

The Department of Planning is currently undertaking a comprehensive assessment of the proposed upgrade and expansion of the Careel Bay Marina, including all issues of concern raised in the 227 public submissions.

I will consider the Department's assessment and issues raised in public submissions when determining the development application.

#### Questions without notice concluded.

*[The President left the chair at 1.02 p.m. The House resumed at 2.30 p.m.]*

## TABLING OF PAPERS

**The Hon. Tony Kelly** tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 200:  
  
Department of Local Government  
New South Wales Local Government Grants Commission
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2005:  
  
Border Rivers—Gwydir, Lachlan, Southern Rivers and Western Catchment Management Authorities  
New South Wales Casino Control Authority for the year ended 30 June 2005
- (3) Greyhound and Harness Racing Administration Act 2004—Report of the Greyhound and Harness Racing Regulatory Authority for the year ended 30 June 2005.
- (4) Greyhound Racing Act 2004—Report of Greyhound Racing New South Wales for the year ended 30 June 2005.
- (5) Harness Racing Act 2002—Report of Harness Racing New South Wales for year ended 30 June 2005.
- (6) Thoroughbred Racing Act 1996—Report of Racing NSW for the year ended 30 June 2005.

**Ordered to be printed.**

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders

**Motion by Mr Ian Cohen agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 181 outside the Order of Precedence, relating to interstate freight on the Pacific Highway, be called on forthwith.

### Order of Business

**Mr IAN COHEN** [2.35 p.m.]: I move:

That Private Members' Business item No. 181 outside the Order of Precedence be called on forthwith.

This motion is urgent because of the continuing deaths and devastation caused by B-doubles on the North Coast section of the Pacific Highway. In light of these urgent safety considerations this matter should be debated today. Many people in the vicinity of the Pacific Highway are living in fear of their lives. They are afraid to leave their homes by car, especially at night, because of the menace of these large and highly dangerous trucks. A resolution of the Australian Labor Party country conference called on the Minister to investigate a 12-month moratorium on B-double trucks using the North Coast section of the Pacific Highway. The danger to human life and property posed by B-doubles on this section of the Pacific Highway, especially on the non-upgraded sections, warrants urgent attention.

**Motion agreed to.**

### PACIFIC HIGHWAY FREIGHT TRANSPORT

**Mr IAN COHEN** [2.35 p.m.]: I move:

That this House:

- (a) recognises the danger posed to residents and motorists on the Pacific Highway by interstate freight (especially on non upgraded sections),
- (b) condemns the Government for allowing B Doubles on the Pacific Highway, as gazetted in August 2002,
- (c) notes that the interstate freight route is the New England Highway, and.
- (d) calls on the Government to stop interstate freight on the Pacific Highway.



I said earlier that many people on or near the North Coast sections of the Pacific Highway are intimidated by B-doubles on a daily basis and are afraid to drive, especially at night. The prospect of having these enormous trucks bearing down on them is not to be envied. Residents are concerned about B-doubles sharing the road with parents taking their children to school, the elderly going shopping, and holidaymakers making their way to coastal destinations. The winding nature of the Pacific Highway and the fact that it is not a dual carriageway make it dangerous for such large vehicles to share the road with local and tourist traffic. Combine that with the fact that many truck drivers on the Pacific Highway openly confess to amphetamine use in order to meet tight schedules, and we have a recipe for disaster.

There are countless anecdotes from residents and tourists about accidents and near misses on the highway, as well as episodes of terrifying tailgating by B-doubles. In October 2003 a B-double chemical truck jack-knifed on the highway right next to residential housing in Ocean Shores. Accidents such as that highlight the dangers posed by these trucks. Possible chemical spills in residential areas are a nightmare that residents do not need. I condemn the Government for allowing 25-metre B-doubles on the Pacific Highway, as gazetted in August 2002. Prior to August 2002 there were trucks on the Pacific Highway, but not these monstrous 25-metre B-doubles. Since then the safety of residents and motorists on the highway has seriously deteriorated.

On the Pacific Highway heavy vehicles account for 15 per cent of traffic but are involved in 35 per cent of fatal crashes. I am sure that members of The Nationals will refer in debate to the interstate freight route. The New England Highway is not designated for interstate freight. Prior to B-doubles being allowed on the Pacific Highway in August 2002 the freight effort was shared between various routes, including the New England Highway. All freight was not forced onto the Pacific Highway. The Government should give serious consideration to upgrading the New England Highway, which was originally intended for the bulk of heavy vehicles and the carriage of freight.

The New England Highway is federally funded. Following the opening of the Pacific Highway to B-double use there was a drop in the number of B-doubles using the New England Highway and an increase of freight on the Pacific Highway. At a committee meeting at Newrybar Hall on 3 November there was consensus that interstate freight should be moved back to the New England Highway and that inland freight routes and rail options should be investigated immediately. We must provide adequate rail options for the north of New South Wales and other road freight options that distribute freight more equitably.

A significant number of communities in the north of New South Wales are saying, "Leave the Pacific Highway for motorists and move freight onto rail, especially in light of the fact that the world's oil supplies are dwindling." We must look toward the future and be prepared with better rail infrastructure. Heavy vehicles must be moved onto other motorways—for example, the Newell and New England highways—and we should investigate other options. Noise is a massive issue for residents. The Pacific Highway is a regional highway, not an interstate freight route. On 16 November in Grafton a meeting was called, at which the following were agreed:

Move Interstate freight back to the New England Highway now. Support your local members to De-gazette B doubles from the Pacific Highway now.

The RTA process is flawed and has no support from the communities and CLG's from Coffs Harbour to Tweed.

T2E is going to have a slow drive along the highway on 2 December to highlight these issues...

The community's desperate concern will encourage participation and demonstration in the development of a very well organised campaign in the north of New South Wales that will save the lives of people. The meeting also agreed:

We are calling on the Minister to immediately investigate alternative inland freight and rail options ...

We call for a complete halt to RTA upgrade proposals for the Pacific Highway and a review of the North Coast Transport Strategy ...

Areas of agreement included:

- the highway can be made safer immediately by enforcing speed limits and removing through transport.
- local upgrades, separate North/South traffic does not require a Motorway ...
- there are many alternatives which would satisfy the transport issues. These MUST be examined by the government prior to route selection.

- there is a complete lack of confidence in the RTA.
- there should be an independent inquiry into the RTA.
- there are many serious ecological issues apparently ignored by the RTA.

Jack and Yvonne Harper advised my office of an advertising campaign in the area and said:

These ads have been backed up with TV commercials in prime time on 2 north coast TV channels. There have also been a series of public meetings in Newrybar, Ballina, Byron Bay and Grafton where representatives from 7 segments of the highway upgrades from Byron Bay to Coffs, met and agreed on a united front. We have also to date over 10,000 individual submissions (and growing) supporting the 4 points listed in the appended ad. These campaigns have not been funded by big business or developers. They ARE being funded by ordinary people who can ill afford the amounts of money that they have contributed willingly. The campaigns and meetings have NOT been orchestrated by experienced campaigners, they ARE being organised by a very dedicated and talented group of people. There is a united voice along the highway against an upgrade designed primarily to benefit heavy interstate transport.

I will not take up too much time of the House, but I want to quote a media release issued on Tuesday 7 November by the Hon. Amanda Fazio. It said:

Country Labor calls for a Moratorium of B-double trucks using the Pacific Highway.

As duty MLC for Ballina, Amanda Fazio today welcomed the resolution from the ALP country conference, calling on the Minister for Roads to investigate a 12-month moratorium on B-double trucks using the North Coast section of the Pacific Highway.

Local ALP members from the North Coast successfully urged the ALP country conference to call on the Minister for Roads to investigate placing the moratorium for 12 months or until that section of the highway has been upgraded to dual carriageway.

"The North Coast section of the Pacific Highway often experiences serious and sometimes fatal accidents each week. Many of these accidents involve large B-double trucks.

"We need to investigate measures that will help secure the safety of local residents.

"Investigating a moratorium of B-double trucks on the North Coast section of the Pacific Highway is a step in the right direction", said Amanda Fazio.

Ms Fazio congratulated local ALP members for urging the Australian Labor Party to support these changes.

I believe this matter is urgent and I ask the Government to take note of the motion. The massive campaign on the North Coast is costing the community a great deal but it is also uniting it. First, I ask the Government to seriously look at the processes that were undertaken by the RTA to develop its motorway strategy on the North Coast, which has got the community up in arms. Second, I ask the Government to seriously consider the removal of B-doubles, particularly—as I understand from the Deputy Leader of the Opposition, because of the concern about the 25-metre length of B-doubles on the highway—to reduce the level of truck movements and the danger on this important regional route. I commend my motion.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [2.45 p.m.]: The Opposition strongly supports some paragraphs of the motion, does not support other well intentioned paragraphs that are impossible to implement, and considers one to be just wrong. The Opposition asks that the paragraphs of the motion be put seriatim to accommodate its concerns. I congratulate Mr Ian Cohen on bringing this matter before the House. I know he is a concerned resident of the Byron Bay area, and that his friend, the honourable member for Ballina, Don Page, has done a huge amount of work on this matter. Like the honourable member, I attended the recent first hearing of the committee on the Pacific Highway, which was fantastically chaired by our colleague the Hon. Jennifer Gardiner. Members of the community appeared before the committee to express their concerns.

I am sure that all members of Parliament who were there were daunted by the anger, angst, concern and emotion shown by members of the community who have been affected by this matter. They feel disaffected because Joe Tripodi and the Roads and Traffic Authority [RTA] have ignored their concerns and have moved against them in so many ways. One could sense that the community was united in its genuine concern about this matter. Paragraph (a) of the motion states:

- (a) recognises the danger posed to residents and motorists on the Pacific Highway by interstate freight (especially on non upgraded sections),

The Opposition agrees with that paragraph, which reflects the view that the community put to the committee. Paragraph (b) states:

- (b) condemns the Government for allowing B Doubles on the Pacific Highway, as gazetted in August 2002,

That gazettal related to B-Doubles of more than 25 metres in length, but smaller B-doubles had been allowed to travel on that road for a number of years. As Mr Ian Cohen and the community have said, the change happened when the Federal Government spent money on the road because the State was not upgrading it for the community.

**The Hon. Michael Costa:** They insisted.

**The Hon. DUNCAN GAY:** The Minister said they insisted. The State Government has a long track record of putting its hand out to accept Federal Government money and then claiming it as its own. Federal Government funding has provided some excellent sections of road, but connecting sections are not in good condition. The gazettal supported by the RTA only took into account the good sections of road and did not consider the substandard sections. The RTA did not consider that local people use the Pacific Highway on a daily basis to take their children to and from school and to travel to and from work, and elderly people use it to shop but that they all have to share the road with very large vehicles that travel very quickly. Those people are intimidated by the trucks, because a large number of accidents occur on that road. The Opposition supports paragraphs (a) and (b). Paragraph (c) is wrong because there is no designated freight route. It states:

- (c) notes that the interstate freight route is the New England Highway, and

There is no designated freight route. I suspect that the member is confused by the fact that it is a widely held belief—an accurate belief—that the larger part of interstate freight used to go up the New England Highway before improvements to the Pacific Highway but that it is now using the Pacific Highway because it is cheaper and quicker. However, this is certainly a problem for local residents. The Opposition does not support paragraph (c) because it is inaccurate. However, in the past some interstate freight did travel up the Pacific Highway.

**The Hon. Melinda Pavey:** And the Newell Highway.

**The Hon. DUNCAN GAY:** And the Newell Highway. Paragraph (d) calls on the Government to stop interstate freight on the Pacific Highway. I am sure it is the intention of the honourable member that only local trucks travel on the Pacific Highway. Even though that paragraph is well intentioned, it seeks to put in place something that is not achievable. Will we have customs officials checking the manifests of vehicles to see whether freight is going from Sydney to Brisbane or Coolangatta, or whether the freight is a back load from Coffs Harbours or Ballina, or whether the trucks are going to Coffs Harbour, dropping off freight, picking up another load and taking it on to Queensland. Indeed, some well-respected trucking companies have operated out of coastal regions such as Port Macquarie.

Paragraph (d) is well intentioned but it is not achievable. Unless it can be reworded, the Opposition cannot support it. Therefore, the Opposition supports paragraphs (a) and (b) but it does not support paragraphs (c) and (d). However, I congratulate the honourable member on moving the motion, because it reflects the genuine concerns of my colleagues about the Pacific Highway.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [2.53 p.m.]: The Australian Democrats have a proud record of campaigning for a national rail network and alternative transport to the endless sprawl of roads. My background in occupational health and safety—in which I have a masters degree—with special interest in shiftwork and its effects, reflect this. I have had a great interest in road safety since I have been in the Parliament and I have done work with the long-distance trucking industry. Indeed, I suggested a staging post halfway between Sydney and Brisbane, and another halfway between Sydney and Melbourne, where drivers, who would travel in pairs, one going south and one going north, could swap. Unloading facilities are often very poor and after drivers have travelled perhaps 1,000 kilometres, on many occasions they have to queue for hours to unload their trucks, at which time they become exhausted.

The change from the inland route to the coastal route with the augmentation of the Pacific Highway around Karuah and further north up to Taree is going ahead. The proposed route is causing some controversy, with four proposals being on the drawing board. The three cheaper ones are further from the existing road and have a greater environmental impact, and the environmentalists are up in arms about them. However, the Government has delayed the decision so long that more properties have been built along the routes and more residents are affected.

Also, over the past 50 years governments have allowed the rail network to decline and even though it could have been maintained at a reasonable cost, and loading and unloading facilities could have been kept up to date, easements have been set in those areas and controversy now surrounds the Port Enfield project. Roads are being built at far a greater cost than it would cost to maintain rail services.

It takes approximately one-quarter the amount of energy to carry freight on rail per tonne than it takes to carry it by road. Despite this the Government refuses to put money into rail maintenance and rail continues to decline, as the Murwillumbah to Casino debacle has shown. It should not be beyond the ability of our designers to achieve a smooth transfer of roll-on, roll-off containers from rail to road, yet remarkably little attention is given to this. B-doubles are extremely large, wide trucks that are almost trains running on roads. They are immensely threatening to anyone who tries to overtake them. They travel at tremendous speeds and local residents are distressed at sharing the road with them.

I support the motion. I urge the Government to provide more funding for the rail system to take pressure off roads and look at other ways than trucks to move freight. I wonder whether for the sake of saving a fraction of a cent per kilometre there should be a more diversified food source. The motion should receive the support of the House. I am not sure that the best solution is to push traffic onto the New England Highway, because that is a short-term solution of moving trucks onto relatively narrow roads. If the rail system were improved it would be a real option. If there were advanced technology with roll-on, roll-off facilities the trucks, with the exception of the prime movers, could travel on rail. The neglect of this aspect of freight handling has made rail unco-operative. More needs to be done before the oil crisis occurs and before there are more deaths on the Pacific Highway.

**The Hon. MICHAEL COSTA** (Minister for Finance, Minister for Infrastructure, and Minister for the Hunter) [2.57 p.m.]: I oppose the motion, not because I do not share the sentiments expressed—we all want to reduce accidents on all highways and roads; we all share that objective—but because the motion is misguided in that it does not recognise that the Pacific Highway is part of the national highway network. It does take freight. Any proposal that says one can overnight substitute the Pacific Highway and freight movement, be they B-doubles or any other form of truck movements, for truck movements misunderstands the economics of the transport industry.

We will always have a modal arrangement between our transport components. There will always be trucks on our roads. They are very efficient and effective at moving a range of freight over short distances particularly. At the same time, rail provides a very efficient and economic solution to the movement of both commodities over longer distances. Any notion that somehow they are interchangeable does not make sense. Anybody who understands the functioning of the State economy and the economics of transport would not support the motion.

I will approach this issue in a bipartisan way because I had a good relationship with the former Federal transport Minister, John Anderson. We tried to look at this issue on a serious basis with a view to providing some solutions, recognising that we do not live in a dictatorship and we cannot force people to use one particular road system as opposed to another. We cannot force all the traffic to travel down the New England Highway; traffic will continue to use the Pacific Highway. Yes, we are concerned about the state of the Pacific Highway. That is why both governments are investing large sums of money to upgrade that highway, and those funds are being proportionately shared between the two governments. We have said on many occasions that, from the New South Wales Government's point of view, we would like to see more Federal funds allocated.

**The Hon. Duncan Gay:** It is a State road.

**The Hon. MICHAEL COSTA:** I am not going to get into a debate about whose road it is. Under the national AusLink arrangements the Commonwealth Government has a responsibility to provide funding for these roads. It is a joint responsibility. We have provided \$1.6 billion over the 10-year program; the Commonwealth Government has provided substantially less. The proportion of trucks using the Pacific Highway has increased. It has increased not because of the AusLink arrangements with the New England Highway but because of the growth in the national economy. As we grow our economy there will be more transport movements, and those transport movements need to be accommodated.

I believe the reference to B-doubles is completely misguided. Anyone who knows anything about the trucking industry will realise that B-doubles reduce the amount of trucks on the road because they take larger payloads. That means there are fewer movements, not more movements. Certainly there are issues with B-

doubles, which is why the State Government has looked at a range of safeguards in relation to vehicle standards and has progressed that through the National Transport Ministers arrangements. I think we have made some progress in those areas. We are also looking at global positioning systems, using new computer-based technology to ensure that those trucks stay on the roads that are designed for them.

The Government is committed to upgrading the Pacific Highway, and will work with the Federal Government, as part of the AusLink arrangements, to do that. Yes, it would be good to have more money. I call on the Commonwealth Government to provide more funds, and we will certainly put those funds towards the Pacific Highway. I do not want to get into a narrow, sterile, political point-scoring exercise, which I think is underpinned by part of this motion. The New South Wales Government recognises that local communities have legitimate concerns. The Government recognises that there are different levels of responsibility at different levels of government in relation to the Pacific Highway. We give a commitment to work with the Commonwealth Government to try to resolve those issues. However, as I said, more funding would help.

An argument has been put forward by the New South Wales Government, based on the funding arrangements currently in place, that there is a shortfall of around a half a billion dollars that ought to be provided by the Commonwealth Government to accelerate the upgrade of the highway. The notion that we could somehow close down the Pacific Highway and that it would cease to be a major freight corridor is misguided. I know rail intimately. I have worked in the industry. As I said, it is good for certain tasks. The technology is effective with bulk commodities over long distances, but less effective with time-critical freight over particular distances or locations that cannot be serviced by rail.

**The Hon. Dr Arthur Chesterfield-Evans:** Not in New South Wales, where it is so expensive and so slow.

**The Hon. MICHAEL COSTA:** It is impossible to put a rail line into every town in Australia. Therefore, logically, there will be truck movements. It is impossible to have a rail line into every farm, for example, to move grain or other produce. There will always be trucks on the road. We need to strike a sensible balance between the requirements for safety and noise-related environmental issues and the need for a functioning economy that has an integrated transport strategy that works. These are always great challenges because we do not have unlimited funds, but we will work with the Commonwealth Government to ensure that, over a sensible time frame, the Pacific Highway is upgraded.

I make the point that, so far as the accident statistics are concerned, when one compares the overall number of accidents one sees that not that many accidents have been caused by heavy vehicles. People have to be clear about that. I looked at these statistics when I was Minister for Roads and only a small proportion of accidents are related to trucks. In fact, ordinary motor vehicles that use our highway system are involved in more accidents. That is a fact. Yes, there are issues in relation to trucks and truck drivers, but I would be loath to attack the truck industry. I think they do a very good job in difficult circumstances to ensure that everyone gets the goods and services they want in a timely manner. What I was roads Minister, I attended a forum sponsored, I think, by *60 Minutes* in which I had an opportunity to talk to a range of people in the industry about the pressures involved. It is a pressure industry, but those pressures are largely caused by consumer expectations.

It is unfair to blame the industry or to blame those in the industry for providing a service that delivers the goods that we need as a community. That is why I find it a little disturbing that we have not had a balanced approach to this. If the motion recommended that we all work together to try to deal with the problems associated with all of the State's highways, including of course the Pacific Highway, I would not have a major problem with that. As I said, there are funding issues. The Commonwealth collects an enormous amount of money from fuel excise but only a portion of that is channelled back to roads. When one looks at the State budget, one sees that all the funds that we collect from road users—they relate primarily to weight taxes—go back into the roads system. If we had unlimited funds we would already have upgraded the highway. Unfortunately, we do not have unlimited funds and we have to work with the Commonwealth Government to try to ensure that we end up with a road network that makes sense and provides maximum safety in the conditions under which we have to operate.

The motion is unrealistic. There is no means by which we would be able to stop freight movements on the Pacific Highway. It is completely unrealistic to expect that. It is also unrealistic, as I said, to expect that things will somehow magically lend themselves to being moved by rail. The Pacific Highway is part of the national road network. It is a major eastern seaboard transport route. It services both local and interstate transport needs—I think sometimes people forget that there are local components to this issue. There are

shopping centres, for example, up and down the coast that require the delivery of goods for people who live in those areas. They are going to be moved by heavy vehicles. As I said, if B-doubles are used they reduce the amount of trucks on the road because of their higher payloads.

It is not practical or possible for any government—the Federal Government or the State Government—to restrict transport to the New England Highway. That is unrealistic and that is why I have a problem with this motion. We have to work together to put a proper upgrade proposal in place. I sat down with John Anderson and we discussed a motorway, which was an attempt to try to bring forward the expenditure on the Pacific Highway to ensure that we ended up with the appropriate dual carriageway. A position seems to have emerged from some of the councils up north that they want neither the Pacific Highway nor the motorway, which is also completely unrealistic. A better approach would be to sit down with us—and, as I said when I was roads Minister, I am happy to facilitate some of those discussions.

In fact, I had an opportunity to meet with some of the local mayors and they were very interested in the proposal for a north coast motorway to take some of the pressure off the Pacific Highway. I think those discussions are the way forward. As I said, the suggestion that we can eliminate freight movements on the Pacific Highway is completely unrealistic. We are considering what to do in relation to B-doubles. Consultation is occurring at the national level, through the roads Ministers forum, the National Ministerial Council and the National Transport Commission to consider increased measures to improve safety issues associated with heavy vehicles. Once again, I make the point that that not every accident on the highway involves heavy vehicles—far from it. There are numerous accidents involving general traffic, in far greater numbers than those involving heavy vehicles.

**The Hon. Melinda Pavey:** It is about dual carriageways, not trucks.

**The Hon. MICHAEL COSTA:** I acknowledge the interjection from the Hon. Melinda Pavey. It is about getting a road that is much more effective, a dual carriageway, and that is what we are working towards. To focus on the trucks, truck drivers and truck industry is misguided. The responsible operators in the industry have taken a number of measures to improve safety, and I have met with them. The Government introduced chain-of-responsibility legislation, which was supported by members on both sides of the House. It went to the National Transport Commission and the National Ministerial Council. I believe that those measures will go a long way towards improving truck safety. As I said, however, the issue is about carrying out the upgrades in a sensible time frame.

The establishment of a motorway is a potential solution, but we must look at it objectively. If any area of the State lends itself to a motorway approach, I think the Pacific Highway is in that category. Based on the back-of-the-envelope modelling I have seen, a motorway would provide enormous benefits. For example, it would reduce travel time, provide environmental efficiencies on the basis of less fuel being utilised, and ensure a safer road. Honourable members cannot have it both ways. Some say they want a safer arrangement but they do not support options that could lead to the establishment of a motorway or dual carriageway and therefore a safer operating environment.

For those reasons we oppose the motion. However, as I said, we are sympathetic with the underlying premise that communities have an expectation that there be investment in their road system. We are providing that investment in partnership with the Commonwealth Government. Would we like more funds? Yes. Are they available at the moment? No. So we will have to work within our limitations to ensure we get the roads in place. We have made some progress over the last 10 years. From memory, about 40 per cent of the Pacific Highway from Hexham to the Queensland border is now dual carriageway, and there have been significant openings of new sections. Over the next 10 years we will invest more money to ensure we end up with a sensible approach. But there is no simple solution. We cannot ban trucks from using the Pacific Highway, and it is not economically feasible to put all freight on rail. We must consider that the people in the trucking industry have a livelihood based on the efficient performance of the industry, and also that the residents of the area need goods and services.

**The Hon. MELINDA PAVEY** [3.11 p.m.]: This motion has arisen because of the sheer frustration and concern of the people who live along the Pacific Highway. The people who go to work, school and sporting events in the area are constantly scared to drive on that highway. Much of their frustration and concern has been caused by the Government's mismanagement of the Pacific Highway upgrade program over the past 10 years. Some weeks ago my good friend the honourable member for Coffs Harbour, Andrew Fraser, tried to debate this issue with the Minister for Roads. The honourable member was concerned about the fact that the Bonville

deviation, for which planning was approved in March 2000, had not been completed. Since planning for the project was approved, 13 people have been killed on that section of the road. Andrew Fraser was passionate about saving more people from the tragic circumstances that have befallen the families of the 13 people who have been killed on the road over the past couple of years.

The brochure issued by the Roads and Traffic Authority some years ago said that the Ballina bypass was scheduled to be completed by now. So we have two major sections of dangerous road, and there is a lot of commuter traffic mixing with transport traffic, which is creating this emotion, fear and concern. I acknowledge some of the comments made by the Minister for Infrastructure. I do not want our fears and frustrations to be taken out on the trucking industry. The frustration should be taken out on the State Labor Government for its incompetence in handling this issue. I also acknowledge the Federal Government's contribution in trying to get some of the trucks off the Pacific Highway or to limit growth of the New South Wales trucking industry.

Over many years the Federal Government had been trying to include New South Wales in the Australian Rail Track Corporation network. For many years there was a lot of stumbling and bumbling around on that issue. At the time Carl Scully was the Minister for Transport. However, it took the new Minister to do something about it. We have had lots of mistakes and lots of problems under Carl Scully. I acknowledge that the Minister for Infrastructure and the Hon. John Anderson had a good working relationship. However, they should not be congratulated on that; it should be the norm. I suppose the criticism is therefore levelled at Carl Scully for his inability to bring forward that investment and funding for the North Coast rail line. Last year the Government announced a funding allocation of \$450 million to improve rail infrastructure on the North Coast, to ensure we get some of the trucks that travel north—whether it be on the New England Highway or the Pacific Highway—off those roads. That is a good measure; indeed, it is what should happen. However, I make the point that that funding allocation came a couple of years too late. If there had been a better level of management in this State, it would have come sooner.

There is also the problem of the Roads and Traffic Authority's cost and planning overruns. We have had three roads Ministers in 3½ years. In that time we have had Carl Scully, the Hon. Michael Costa, and now Joe Tripodi. The big problem with Joe Tripodi is that he would rather play politics than achieve outcomes. He has been caught out on that issue because, whilst the honourable member for Coffs Harbour has sincerely apologised for his actions in the other place a couple of weeks ago, the community reaction was against Joe Tripodi for his inciting such a reaction and playing politics with such an emotional issue. I recall some of the letters to the editor published in newspapers following that incident. A letter published in the *Sydney Morning Herald* said Mr Fraser's actions were dreadful. But could someone show me where the end of the line is? I believe the community reaction to the incident shows the level of people's outrage about the Government's incompetence at the ministerial level of such a major portfolio. It is for that very reason that we have had \$400 million cost overruns on Pacific Highway projects—which have prevented other upgrades of the highway being completed, such as the Ballina bypass and the Bonville deviation.

The motion arises from the fact that people are concerned about the increasing number of trucks on the Pacific Highway, and about mixing that truck traffic with local commuter traffic. A lot of people are moving to the North Coast; the population growth rates there are significant. People are seeking an alternative lifestyle, perhaps starting up businesses or simply seeking to give their families a better way of life. So we have these compounding problems, but we also have a government that has not been able to properly manage the duplication of the road over the past 10 years. With regard to the motion's reference to the New England Highway, we cannot tell truck drivers which roads they should use; it is a reasonably free country. The point must be made that many of those trucks deliver goods to the major towns and centres up and down the coast, and transport goods from those major towns and centres to markets in Sydney and Brisbane. So it is unrealistic to suggest that we can stop interstate freight on the Pacific Highway and move it to the New England Highway.

It must be borne in mind that the State Government has received an extra \$8 billion—more than it budgeted for—in GST revenue and property taxes. So when the Government cries poor about the GST, it is worth remembering that it has received a hell of a lot more than Bob Carr signed up for. This motion is about the extra \$8 billion the Government has squandered rather than invested in infrastructure on the New England Highway, the Princes Highway, the Pacific Highway and the Newell Highway—not to mention all the roads in Sydney.

It is important to keep those issues in mind. I am a resident of the North Coast. When I mentioned to friends at a school fete that I was driving to Port Macquarie they said, "Be careful, drive safely." There is a community of concern because of the dangerous condition of the roads and the amount of traffic on them.

I understand the sentiments relating to the motion. The Opposition will support paragraphs (a) and (b) but not paragraphs (c) and (d) of the motion.

**The Hon. CATHERINE CUSACK** [3.20 p.m.]: I acknowledge the remarks made by the former Minister for Roads, Michael Costa, about a number of meetings he held with local councils. In particular, I appreciated his meeting with the Mayor of Ballina, Phil Silver. While people are unhappy about the Government's entire record relating to the Pacific Highway, I must praise the former Minister for his performance, compared with that of the current Minister for Roads, Joe Tripodi, of whom I was particularly critical last night. Unfortunately, the current Minister is playing political games with the Pacific Highway. It is totally inappropriate to take that approach on this issue. The Minister is learning the hard way that this issue is beyond politics; it is beyond having a little fun and stirring the pot a bit with a few of his parliamentary colleagues. This is life and death, and I hope the Minister is getting that message.

As for the background to this issue, there was a major upgrade. I think that upgrade my colleague the Deputy Leader of the Opposition was referring to was the Yelgun to Chinderah upgrade, which resulted in bypassing the notorious Burringbar range. The Burringbar range had a high fatality rate, a number of low speed zones and what I think was the most profitable speed camera in the State. Indeed, one speed camera in the Burringbar range was bringing in revenue to the State in excess of \$1 million per month.

**Mr Ian Cohen:** And saving lives.

**The Hon. CATHERINE CUSACK:** And saving lives, yes.

**Mr Ian Cohen:** A cheap option.

**The Hon. CATHERINE CUSACK:** That \$1 million per month suggests that many people were still breaking the speed limit, and numerous lives were still lost. It was marvellous when the Yelgun to Chinderah bypass opened. However, we did not realise that the Roads and Traffic Authority [RTA] snuck through a little regulation change that altered the size of trucks that could travel on the Pacific Highway. I note that Byron Shire Council submitted an objection to the Ombudsman on the way the that regulation went through; the local councils and communities were virtually unaware of this happening. The Ombudsman upheld the complaint and as a result the RTA has changed its procedures so that whenever such a change is made in the future the community will be properly notified that it is under consideration. Unfortunately, it is too late in the case of the large B-doubles on the Pacific Highway.

The opening of the Yelgun to Chinderah bypass resulted in the black spots on the Pacific Highway moving to other places. We are now able to avoid the Burringbar black spot, but the black spots moved because the amount of traffic and size of the trucks increased. As a result, other parts of the road that were not so dangerous previously became more dangerous because of the change in traffic and traffic volumes. That is what has given this issue a lot of heat. As the Minister said, the Pacific Highway is a local road as well as a highway. However, it is not just a local road in regard to freight deliveries. It is also the main local road for the people living on the coast who want to travel to the traditional inland port city centres. The coastal population is in places like Ballina and Byron and all the work, study and hospitals is taking place in Lismore, which necessitates enormous local usage of the Pacific Highway. The same can be said for communities further south on the coast in terms of travelling to Grafton and Taree, where the hospital is located.

There is enormous traffic going backwards and forwards. The Pacific Highway is unavoidable because there is no coast road. The coast road between Ballina and Byron Bay is frequently used when there is a major accident at Tintenbar, for example. It comes in handy when the RTA uses road diversions. Horrifically sized trucks, B-doubles, travel down Ross Lane and almost fall off the edge of the road. Certainly, oncoming traffic must stop while the trucks make their way down the hill, and it is difficult to get through the roundabout at the top of Lennox Head, where my home is located. Similarly, if there is a major accident on the road between Ballina and Grafton traffic is diverted to the Summerland Way, which necessitates travelling through Alstonville.

Trucks trying to negotiate through the town of Alstonville are physically unable to take the corners in Main Street. It is diabolical. Traffic diversions occur without notice, not only following accidents—although that is the common cause—but also when the road floods, and so on. B-doubles were allowed on the road simply because the Burringbar problem had been fixed. However, the message from the community is that the rest of the system was unsuitable for these large trucks. In relation to the topography of the existing road, I



mention Tintenbar Hill. That part of the State is volcanic country and there are a lot of beautiful hills. The RTA built the road in such a way that at the bottom of the hill and into the valley the road takes a sweeping curve, say, to the left. Truck drivers try to increase speed as they come down the hill, but they get up too much speed; when they travel back up the hill and try to take the curve to the left they lose control, cross the width of the entire highway and slam into the embankment.

I have seen three B-doubles do that and slam into the same section of the embankment. Similar accidents happen time and again. I am aware of many more accidents happening in the same way in the same spot, and they often happen at night. When the trucks are removed with cranes, people are relieved there are no cars underneath. The B-doubles have enormous potential to wipe out buses or any other vehicles travelling north as they travel south. I do not blame the problem on the truckies. Although there is enormous anger towards the truckies, particularly in relation to the Ballina bypass, I have said publicly that I am sure the truckies do not wish to drive through Ballina.

Perhaps in a sense we should be working with the trucking community to achieve road improvements on the Ballina bypass. Rather than seeing trucks as the cause of the problem, perhaps they can be part of the solution. However, I believe that some truck drivers behave badly, and that must be addressed. I refer to the awful triple fatality at Coffs Harbour recently. Coincidentally, I was driving home that night. As I approached Clybucca at about 9.00 p.m.—the road at Coffs Harbour had just been reopened following the accident—I saw a stream of light coming towards me. More than 200 trucks would have been backed up because of the road closure at Coffs Harbour. The trucks came towards me like a river of light, a convoy of more than 200 trucks in the middle of the night. Any motorists caught up in the middle of the convoy would have been absolutely terrified.

I do not understand the reason for the lighting on trucks at night. I realise that a reasonable amount of light is required for headlights to show the road and for there to be marker lights on the sides of trucks, but I do not understand why the war paint and colour on the front of trucks is necessary. Trucks, with horns blaring, can come within a foot or so of the back of one's car in the middle of the night. I think such lighting on trucks, which is obviously deliberately intended to intimidate motorists and get them off the road, should be illegal. All of us have been driven off the road by such behaviour on the Pacific Highway. Motorists simply get off the road because they know that that is what the truckies want, and it is not wise to argue with a B-double in those circumstances.

I turn now to the New England Highway, which has not had a huge drop in interstate freight. The New England Highway has a similar problem with increasing freight traffic. According to the RTA and evidence we received during our rail inquiry, although freight traffic on the Pacific Highway has doubled, it has not resulted in a decline in freight traffic on the New England Highway. This point is important because obviously we are struggling with this problem. I do not think our community wants to lump our problem onto another problem. We want a solution to the increasing freight traffic.

There has been an explosion in interstate freight. It is not necessarily all funnelled off the highway, but there has been an overall growth in freight. That is why we want to see rail solutions to the problem. People are asking why the Government is closing rail lines and destroying our rail system at a time when we have never needed more to get freight off the roads. That is the obvious solution and people cannot understand why it is not being pursued.

The Minister said that only a small number of accidents on the Pacific Highway involve trucks. Trucks are involved in more accidents than is reflected in the statistics. About a year ago an accident caused the death of three people at Ballina. I was watching my son play football when this occurred. The accident involved a head-on collision between two cars. One car had been behind a truck and was not visible to the other car. Without going into the complexities of the accident, the accident was certainly not the fault of the truck driver, but had the truck not been on the road, the accident would not have occurred, as the road is not suitable for coping safely with trucks of that size.

This is not about blaming truck drivers or trucks—the road is not fit for that type and volume of traffic—it is about safety. There cannot be any more important policy objective. I support my community in its calls for the Government to rethink these strategies, which are causing the full burden of freight to fall on roads that are ill equipped to handle it.

**Reverend the Hon. Dr GORDON MOYES** [3.31 p.m.]: I concur with what the Hon. Catherine Cusack said. I have no particular insight into the answer to this problem but I would ask the Minister to look at

these issues and address them. I have received a number of emails from people along the Pacific Highway, including one from a long-time employee of Wesley Mission. Through Wesley Mission I have been responsible for about 30 centres of care along the Pacific Highway to the Queensland border. In most of those locations there is concern about the road. Lesley Toseland, one of my staff, e-mailed me as follows:

Dear [Dr] Moyes

I am employed by Wesley Uniting Employment at Ballina.

I write to seek your support in a local matter.

The RTA has announced Route Options for the upgrade of the Pacific Highway, between Ballina and Byron Bay. The proposal is for a 6-Lane Motorway rather than an upgrade to a 4-lane Class A highway. The smaller upgrade would more than adequately meet the region's needs for the future IF the heavy transport currently using the road was diverted back to the New England Highway.

I am aware that there is not just one highway for B-doubles and another for heavy transport. I would like the Minister to answer my questions on this issue. There is an urgent need for more freight to be carried by rail, as we all appreciate. But my informant indicates that with the opening of the northerly Yelgun to Chinderah section of the highway upgrade several years ago a regulation was passed by Parliament permitting B-double trucks to use the Pacific Highway. My informant tells me that the number of trucks using the highway now exceeds 2,000 vehicles per day, most of them travelling at night. This is a real worry for local people using the highway, including children who have just gained their P-plates following their Higher School Certificate exams.

People in the area tell me they wish us to degazette the regulation concerning the use of B-doubles on the Pacific Highway. I ask the Minister whether that is a possibility, whether it is desirable, and whether it would have the effect of pushing B-doubles back onto the New England Highway. It seems to me that there is a major breakdown with the Roads and Traffic Authority on these matters. The Minister's responses may help to clarify the position and put people's minds at rest in relation to what the Government is doing on what is obviously an extremely vexing and important local issue.

**Mr IAN COHEN** [3.36 p.m.], in reply: I thank honourable members for their contributions to this debate. I am cognisant that I have taken the time of the House, but it is an important matter that in the long term could save lives. It is vital that we look at these issues in detail. The Deputy Leader of the Opposition talked about the gazettal of changes to highway use after the Roads and Traffic Authority [RTA] improved some sections of the road. The black spots are now further north. The quickest way to deal with the black spots is to upgrade the existing Pacific Highway rather than divert resources to major infrastructure development that will take much longer. The Deputy Leader of the Opposition said the proposal in paragraph (d) of my motion is unachievable as there would be difficulties with Customs officers checking freight between Sydney and Brisbane. What happened before August 2002, before B-doubles were allowed to use the highway?

**The Hon. Melinda Pavey:** Your motion bans interstate freight.

**Mr IAN COHEN:** I was deliberately looking beyond B-doubles in the wording of my motion. Prior to August 2002 certain vehicles were not allowed on the Pacific Highway, and that was effectively policed. There was an impact when the Government changed the regulation. I strongly disagree with the view put forward that we cannot direct which trucks may use various routes. But we can ameliorate the pressure on one route by spreading traffic across various transport routes and transport modes.

I commend the serious participation of the Hon. Michael Costa in this debate. His input is valuable. He concedes that it is effective to send bulk freight long distances by rail. I agree that it is less effective over short distances. But no-one is saying that effective, short-distance truck transport should be banned. With the bimodal rail-rail forms of transport and freight terminals, containers can be loaded from road onto rail and then back onto road at the other end. This means that the short-distance component is done by truck and the long-distance component between the major capital cities is done effectively by rail.

There is endless information about this. It is done in United States and it would be more than possible here. An integrated transport strategy would reduce accident statistics. As the Hon. Catherine Cusack suggested, there may be fudging of statistics: although trucks may not cause accidents, their presence could lead to more accidents. Anyone who travels sections of the Pacific Highway, as my friends and I do, knows the huge danger on that road, especially at night on the North Coast when there is heavy rain. It is downright dangerous and the

situation is compounded by some elements of the trucking industry. I am not saying all truck drivers are at fault, but significant numbers of them drive like cowboys. They are dangerous, they are bullying, and they tailgate while trying to get their freight to the depot on time. They are driving dangerously and are freaking the daylighters out of people in the community. What do we have to say to get the point across to them that their driving is dangerous? That area is like a war zone. I obtained my driving licence on my seventeenth birthday and have been driving ever since. I have driven light trucks and vans.

**The Hon. Melinda Pavey:** When was that?

**Mr IAN COHEN:** A long time ago—in about 1967. I, and many others like me who live on the North Coast, have to use motor vehicles because of the paucity of public transport. When I am on these roads and see truck drivers driving dangerously, because of the clever communication system truck drivers have of notifying one another of the location of police and roadblocks, there are no police to be seen. Speed cameras were erected in the Burringbar Ranges and the Government made a lot of money from them. That sent a message to many people using that section of road and it reduced the number of accidents. On other sections of road, for example, at St Helena, truck drivers are given a warning that they are going too fast but there are no police to stop them or to tell them they will be fined. It is tragic that 13 people died recently on the Bongil Bongil section of that highway.

I commend the Hon. Melinda Pavey for her contribution. She said the rail network must be encouraged to take some of this freight. The trucking industry has considerable power over State and Federal governments but we must tell it to carry its freight on other highways. We must regulate to get major freight trucks off the Pacific Highway and share the traffic, thus making that highway and the New England Highway safe. We must also upgrade the Newell Highway and make it safe, and upgrade rail services.

When we take into account the death and destruction on the Pacific Highway we have to include all the health costs and the ancillary physical and emotional costs of that carnage. If we upgraded all those other highways, we would be providing the people of New South Wales with a better freight service. The Hon. Catherine Cusack said that freight on the New England Highway had not been reduced. The freight load must be shared by both rail and road. I know there is support for paragraphs (a) and (b) of my motion. However, I seek leave to amend paragraph (c) so that it will read:

(c) notes that the interstate freight should be shared with other major transport routes including rail.

That amendment will keep the motion simple and straightforward. It is not necessarily appropriate to target the New England Highway, as it has its own problems. We must spread the freight so the Pacific Highway is made safer for everybody. We must distribute the potential wealth of the transport industry Australia-wide. I am quite happy for each paragraph of my motion to be voted on seriatim. Those living in coastal communities need to know the position of all honourable members in this House. I thank all members who participated in the debate on the motion and I commend it to the House. As honourable members have expressed a desire to view my amendment in written form before deciding whether to grant leave for me to move it, perhaps we should adjourn the debate to a later hour.

**Debate adjourned on motion by Mr Ian Cohen.**

## **BUSINESS OF THE HOUSE**

### **Suspension of Standing and Sessional Orders**

**Motion by the Hon. David Oldfield agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 189 outside the Order of Precedence, relating to the death of Australian soldiers, be called on forthwith.

### **Order of Business**

**Motion by the Hon. David Oldfield agreed to:**

That Private Members' Business item No. 189 outside the Order of Precedence be called on forthwith.

**DEATH OF SERGEANT ANDREW ROBERT RUSSELL****DEATH OF WARRANT OFFICER CLASS 2 DAVID RUSSELL NARY**

**The Hon. DAVID OLDFIELD** [3.47 p.m.]: I move:

That this House:

- (a) expresses its profound sorrow and regret at:
  - (i) the death on 16 February 2002 of Sergeant Andrew Robert Russell, from the Special Air Service Regiment, the first Australian killed in action while fighting in the war on terror,
  - (ii) the death on 6 November 2005 of Warrant Officer Class 2 David Russell Nary, from the Special Air Service Regiment, the first Australian soldier to be killed on duty in relation to the war in Iraq;
- (b) expresses its condolences to the widows, families and regiment of Sergeant Russell and Warrant Officer Nary; and
- (c) notes with profound respect and appreciation the service to the nation of Sergeant Russell and Warrant Officer Nary.

I hold the view that there are few things in public life more important or appropriate than to uphold and record at every opportunity the service to our nation given by those in the military forces. Whether we be at war or are enjoying the peace won by those who have fought, the personnel of our Army, Navy and Air Force do all they are asked and serve with distinction on every occasion. The history of the Australian military service is without parallel in bravery, honour and achievement. The motion of condolence, respect and appreciation that I move today is specific to Special Air Service Regiment members Warrant Officer Class 2 David Russell Nary and Sergeant Andrew Robert Russell, but it is incumbent upon us to acknowledge that there are many who have gone before them and, sadly, others who will follow in the future.

We have a debt to these brave Australians that in reality we can never pay. It is our responsibility to ensure that they are never forgotten. The members of the Special Air Service Regiment are arguably the finest soldiers in the world. They have never known defeat and they are greatly feared by our country's enemies. I have often been asked whom I admire or look up to and who are my heroes. The answer is men such as David Russell Nary and Andrew Robert Russell. We have been fortunate to benefit from the service of many who rightfully deserve to be called great Australians. Some have been politicians and some have thrilled us with their sporting prowess, while others have saved the lives of many in fields such as medical research. But for me there is no greater measure of a man or a woman than that he or she stood in defence of our country and our hard-fought-for way of life.

True Australians never give up their mates, and the conflicts our forces have been engaged in provide the very best examples of that. I expect that in this Chamber only the Hon. Charlie Lynn, through his service in Vietnam, knows what mateship under such circumstances really means. It is understood, and I quote:

SAS training is arduous and exacting. The role of the unit demands a particular type of soldier of outstanding personal qualities.

These personal qualities and make up count more than technical efficiency in an arm of service.

Technical efficiency can be taught, however the personal qualities required of long range, long term operations in enemy territory are part of a man's character and while they may be developed over a period, they must be learned in childhood.

The members of the Special Air Service Regiment are the very best of the best. We are all poorer for the loss of David Russell Nary and Andrew Robert Russell. Sergeant Andrew Robert Russell was the first of our soldiers to give his life in the war on terror. Sergeant Russell was killed in Afghanistan on 16 February 2002. Warrant Officer David Russell Nary was the first of our soldiers to give his life in relation to the war in Iraq. Warrant Officer Nary was killed in Kuwait on 6 November 2005. They died in different countries on different days, but they were in a sense brothers fighting for the same cause. Each of those brave Australians left behind a wife and family. Only those who have lived through the same kind of tragedy will be able to imagine what the loved ones of Sergeant Russell and Warrant Officer Nary are going through. The Minister for Defence, Senator the Hon. Robert Hill, once said of the Special Air Service Regiment:

They have demonstrated courage and commitment in the highest tradition of the Australian Defence Force. Their skills and professionalism in difficult circumstances has been acclaimed by our coalition partners and made all Australians proud.

The memory of those brave Australians will be forever vivid in the minds of their families and friends. I commend the motion to the House.

**The Hon. CHARLIE LYNN** [3.52 p.m.]: I congratulate my colleague the Hon. David Oldfield on, and commend him for, this motion of condolence for two fine officers who paid the ultimate sacrifice for service to Australia—one died in Afghanistan and the other in Kuwait. It goes without saying that the Coalition joins with the Hon. David Oldfield in expressing condolences to the families, wives, sons and daughters who have been left behind and who now face life without their heroes. There is no greater sacrifice that a man can make in the service of his country.

Yesterday I hosted a documentary in Parliament House on the Australian involvement in the Vietnam War. It was organised by my friends John Pritchard and Kerry Phelan and was attended by Vietnam veterans from various organisations. Yesterday a number of the veterans said they are suffering from post traumatic stress syndrome as a result of their involvement in that war more than 30 years ago. Their doctors attended also. Last year a good friend of mine, because of his service in the Vietnam War, suffered a breakdown and has had to move to the country because he cannot stand to be around large groups of people. Until then he exhibited no such symptoms. Many people just have no understanding of the fear and trauma experienced by servicemen and servicewomen. It is only appropriate that on occasions such as this we pay tribute to and extend condolences to the families of those who have died in the service of their country, to let them know their loved ones will never ever be forgotten. I wish to read onto the record a fitting testimonial entitled "A Soldier!". It is signed "Anon":

I was that which others cared not to be. I went where others feared to go and did what others failed to do. I asked nothing from those who gave nothing. I reluctantly accepted the thought of eternal loneliness should I fail. I have seen the face of terror, felt the chill of fear, warmed to the touch of love. I have hoped, pained and cried. But foremost I have lived in times others would say are best forgotten. At the very least, in later days, I will be able to say with the greatest pride, that I was, indeed, a soldier!

The families, wives and children of these two fine soldiers will be able to say that about their loved ones. As the Hon. David Oldfield said, members of our Special Air Service [SAS] Regiment are the finest of the finest. We are fighting a war without boundaries. Our SAS personnel require incredible training and personal discipline, but the one thing that keeps a soldier's flame alight while he is away from home is support from the home front. None of the veterans who attended yesterday had been to Parliament House before, and they were honoured to attend. I told them this was their home, as it is for everybody: it is the people's place and they should always feel they can walk in here at any time and be among friends who support them and their cause. We must give our veterans a sense of belonging and family. I hope the service of those two fine men is never forgotten.

**Reverend the Hon. FRED NILE** [3.57 p.m.]: The Christian Democratic Party and I support this important motion, which states:

That this House:

- (a) expresses its profound sorrow and regret at:
  - (i) the death on 16 February 2002 of Sergeant Andrew Robert Russell, from the Special Air Service Regiment, the first Australian killed in action while fighting in the war on terror, and
  - (ii) the death on 6 November 2005 of Warrant Officer Class 2 David Russell Nary, from the Special Air Service Regiment, the first Australian soldier to be killed on duty in relation to the war in Iraq,

I particularly support the next paragraph, which states:

- (b) expresses its condolences to the widows, families and regiment of Sergeant Russell and Warrant Officer Nary, and—

I also express condolence. The motion continues:

- (c) notes with profound respect and appreciation the service to the nation of Sergeant Russell and Warrant Officer Nary.

It is important that the House express its sorrow and regret at the loss of these two brave men who were serving our nation. As other speakers have said—the Hon. Charlie Lynn knows more than any other member—towards the end of the Vietnam War many of our soldiers, through no fault of their own, were treated shamefully and with disrespect. This was a major factor in the mental health problems that many Vietnam veterans suffer right up to the present time. I know some of those victims and some of them are relatives of my wife, Elaine. Service men and women take it very much to heart if they feel their fellow citizens are dishonouring them. It is pleasing that the House will pass the motion. It does not make us a militaristic nation. We are a democratic regime, but those who volunteer to serve in our defence forces, the Army, the Navy and the Air Force, should know that we greatly respect them for their service to our nation.

**The Hon. DAVID OLDFIELD** [4.01 p.m.], in reply: I thank the House for allowing the motion to be debated and I thank honourable members for their contributions.

**Motion agreed to.**

## **COMPANION ANIMALS AMENDMENT BILL**

### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. DON HARWIN** [4.02 p.m.]: Before question time I said that the Opposition does not oppose the Companion Animals Amendment Bill, but I outlined a number of concerns with certain provisions in the bill. I was about to conclude by noting that the majority of the cost of enforcing the new legislation will fall to local government, regardless of whatever arrangements are made with revenue and the 80 per cent that goes back to council. Nevertheless, this is cost shifting to local government.

The Government took a high-profile stance in the media last May, publicly vowing to ban certain breeds of dogs, and it is now forcing local government to assume the responsibility and the cost of carrying through on that promise. As the shadow Minister said in the other place, the Minister should move to include in the bill a more realistic system of reimbursing local government for the cost of implementing these measures and, indeed, all legislative measures that impact on local government.

Although we do not oppose the tightening of restrictions pertaining to dangerous dogs—indeed, given some of the horrific stories there is public good in that—we do not believe it is satisfactory for local government to be burdened with the cost. Perhaps the current Local Government and Shires Associations investigation into cost shifting will support repeated calls by the Opposition to fund all mandates that the Parliament imposes on local government. On that note, the Opposition does not oppose the bill.

**Reverend the Hon. FRED NILE** [4.04 p.m.]: The Christian Democratic Party supports the Companion Animals Amendment Bill, which amends the Companion Animals Act 1998 with respect to restricted dogs and enforcement. It also implements the recommendations of the statutory five-year review of the Companion Animals Act. The amendments will prohibit the selling, acquisition and breeding of restricted dogs in New South Wales. It will also strengthen the control requirements and enforcement powers available to manage restricted and dangerous dogs in the community. New section 55 states:

(1) The following dogs are *restricted dogs* for the purposes of this Act:

- (a) American pit bull terrier or pit bull terrier,
- (b) Japanese tosa,
- (c) dogo Argentino,
- (d) fila Brasileiro,
- (e) any dog declared by a council under Division 6 of this Part to be a restricted dog,
- (f) any other dog of a breed, kind or description prescribed by the regulations for the purposes of this section.

I note that dogo Argentino and fila Brasileiro are, respectively, Argentinean and Brazilian fighting dogs. Members have not asked whether the dogs in this new section are the only dogs that will be restricted, so the interpretation is open ended. I am not critical of that, but I think the House should note that. Indeed, it should monitor what action is taken by councils and whether the Government will add other breeds at a future time. I note also that the importation of the dogs I have listed is prohibited under the Customs (Prohibited Imports) Regulation 1956 of the Commonwealth of Australia. However, once these dogs are in Australia they can be bred illegally; and, of course, it would be possible to smuggle dogs into Australia, just as drugs and other illegal items are smuggled.

The bill provides for the effective and responsible care and management of companion animals. It enhances the effectiveness of the Act following five years operation. Also, it will prohibit the selling, acquisition and breeding of restricted dogs and will require the compulsory desexing of all restricted dogs, so they cannot be bred. Some people will try to avoid that requirement, perhaps those who are in the outback, and that may need to be monitored.

The bill requires all owners of restricted and dangerous dogs to comply with prescribed control requirements for enclosures, collars and muzzles. It also provides councils with the power to seize a dog if the control requirements are not complied with. The bill requires restricted and dangerous dogs to be under effective control, on a lead and muzzled, and for a person to have no more than two dogs outside their enclosure.

The legislation requires that restricted and dangerous dogs wear a prescribed, distinctive and highly visible collar at all times. It strengthens the enforcement powers available to control a restricted and dangerous dog, provides that the council issue a notice of intention to declare a dog as a restricted dog, and provides that, if a breed assessment concludes that the dog is a crossbreed restricted dog, the dog must then pass a temperament assessment by an approved temperament assessor. It restricts appeals to the court of council declarations of restricted dogs, as an expert is included in the declaration process, increases the maximum penalties, and makes clear that authorised officers have the power to enter property where an offence has occurred. Finally, the legislation reduces general duties for councils that require them to promote the requirements of the Act.

One important aspect is the education of councils in regard to the implementation of the legislation. Councils must take steps to ensure they are notified or made aware of the existence of all restricted and dangerous dogs in their council area. I note that Standards Australia is currently investigating the possibility of adopting the British standard for dog muzzles. That would result in uniformity of approved muzzles. Brandon Gien from Standards Australia said that having a mandatory Australian standard may help to prevent further attacks by vicious dogs. He said further:

We're not suggesting that this is a fool-proof method by any means but if there is at least something that the standard can do to hopefully save the life of just one person, well I think it's worthwhile looking at.

Mr Gien said the organisation will investigate the possibility of adopting the British standard, and concluded:

If there is a mechanism or if there's a product that a standard can actually enforce these dog owners to actually use these things on their dogs, hopefully that will go a long way to prevent this sort of attack from happening again.

A dog being walked on a leash can create fear in a person approaching it, but that fear would be lessened if the person could see that the dog was wearing a muzzle. An owner may think he or she can control a dog, but something unexpected may cause the animal to launch an attack on a passer-by, perhaps an elderly citizen who may be unable to defend himself or herself from being bitten. Such an attack would be prevented if the dog were wearing a muzzle.

I note also that a report was requested by the Department of Local Government dealing with breed-specific legislation issues relating to the control of dangerous dogs. That report was prepared in 2002 by Dr Kersti Seksel, a registered specialist in veterinary behaviour with Seaforth Animal Behaviour Consultants. I will not go through the report at length but it argued that we should not overreact to this legislation. I do not believe we are overreacting. I have no reservations about the legislation. In the report Dr Seksel stated:

Fortunately, the incidence of the death of a victim as a consequence of a dog attack in Australia is extremely low. There had been 11 deaths attributable to dog attacks since 1978.

Personally, I think that injuries sustained in an attack by a savage dog, especially those sustained by children, are significant. Dr Seksel acknowledged that there are many victims with physical injuries of low to medium severity and stated:

Many victims of dog attacks also suffer long-term psychological effects, predominantly fear of dogs or fear of going to places where dogs might be present,

That is simply commonsense. It is one thing to fear an attack by a savage dog, but it would be unlikely for someone who has been attacked and bitten by a savage dog and had their flesh torn apart not to have a fear of dogs. Reading between the lines of the report it would seem that Dr Seksel was trying to downplay the problem when she stated:

Dangerous dogs represent less than 1% of the dog population recorded on the NSW Companion Animals Register and only half of these were involved in an attack on a person.

That may be true. I believe is true, but I do not believe it should be regarded as a minor issue or that we should not be concerned about it. I doubt that people who have been or may be attacked by that 1 per cent of dogs would think so either, especially when such attacks are usually so vicious and physically and mentally damaging to the victims.

In my opinion, a statement published by the Child Accident Prevention Foundation of Australia completely justifies support for this legislation. The foundation stated that each day two or three children attend hospital as a result of having been attacked by a dog. Children under 12 years of age are most at risk, and children aged one to four years have the highest rate of injury. In addition, the dogs of family and friends are involved in most attacks and many such attacks occur at home—40 per cent in the victim's house or yard and 30 percent in a neighbour's house or yard. Of concern is the fact that most serious injury is to the child's head and face, often resulting in significant scarring. Lacerations and bruising to the arms and legs are also common. Restricted dogs, those that are the subject of this legislation, apparently aim for a child's head and face. It takes little imagination to appreciate the tremendous scarring such an attack would leave on the body of a little child. The Christian Democratic Party is pleased to support the bill.

**The Hon. PATRICIA FORSYTHE** [4.16 p.m.]: I want to make a few remarks about this bill, which I only picked up by chance. I have always taken an interest in companion animal legislation, perhaps because in a past life I worked for the Minister for Local Government and we had carriage of the legislation. I was interested to have a look at the overview to the bill and to note that the bill would make a number of miscellaneous amendments arising out of the statutory review of the Act.

The bill has been presented to us as largely dealing with restricted or dangerous dogs, particularly focusing on a small number of breeds of dogs that are prescribed to be restricted. However, I delved a little further into the legislation and I was interested to note that, typical of this Government, hidden in the legislation—well, not hidden, but well into it—there is a whole series of changes. These, I presume, are the miscellaneous changes arising out of the review.

I will tell honourable members what those changes are. They are merely another grab for money on the part of the Government. By way of example, section 29 (3) provides that cats must have some form of identification, and the penalty is increased from five penalty units to eight penalty units. I then discovered that all of these so-called miscellaneous amendments involve increases in penalties. As it happens, a number of them relate to cats, such as increasing the penalty for the offence of a cat being found in a prohibited place. Perhaps my friends in the Greens Party will applaud that, and think the penalty should be even more severe.

In the second reading speech the Minister made no reference whatever to this revenue-raising element of the bill. The Government has failed to say that it is about to increase fines. I have referred to cats not wearing appropriate registration and cats being found in prohibited places. In addition, the penalty for a cat being deemed to be "nuisance cat" will be three penalty points for a first offence, rising to eight penalty points for the second and subsequent offences.

By increasing the fines for dangerous dogs, the Government shows that it is tough on this issue. The penalty for failing to keep a dog on a lead and muzzled has been increased from 50 penalty units to 150 units. I do not for a moment suggest that that is not a significant offence, but I make the point that the Government has simply failed to make any real reference to this being another revenue grab. The bill goes on in this vain. Section 56 (1) (h) provides for the registering of a declared dog, and the penalty is increased from 50 penalty units to 150 penalty units.

Completely unrelated to dangerous dogs, unregistered dogs, or even cats, section 60 increases from five penalty units to eight penalty units the penalty for denying entry to a person with an assistance animal. I know the definition of "assistance animal", because I was instrumental in amending early local government legislation to clarify that. The bill increases from five penalty units to eight penalty units the penalty for unlawfully charging for the entry of an assistance animal. These may be miscellaneous provisions, but it is about time the Government came clean and indicated that the provisions represent yet another revenue grab, another chance for the Government to get its hands in the pockets of animal owners, who mostly do the right thing.

Like many of my colleagues, today I have been inundated with emails from people registering their opposition to the Companion Animals Amendment Bill, particularly with regard to the provisions about certain restricted breeds. Reverend the Hon. Fred Nile said that anybody who had been attacked by a dog may have a fear of dogs for the rest of their life. Indeed, I have been the victim of a dog attack—albeit not by one of the breeds of dogs proposed to be restricted—and I can assure the House that one does not get over it. So the people who have sent emails to me putting forward arguments against such a provision will get fairly short shrift from me.

In particular, I noted two arguments in the emails. The first referred to the persistent claim that there was a 25 per cent increase in dog attacks in South Australia and the United Kingdom after legislation was



introduced to ban certain breeds. I fail to see the logic of such an argument. I am sure I will be inundated with emails pointing out why they are right and I am wrong, but it is nonsense to suggest that restricting certain breeds will somehow result in an increase in dog attacks.

Another argument was that pit bulls are well down the list of dogs involved in attacks. I fail to be convinced by that argument. I would have thought that pit bulls are well down the list because there are fewer pit bulls than many other dog breeds. Of course, we can make statistics say anything we want. The overview of the bill refers to the provision of the principal Act with regard to dangerous dogs. Obviously the provision is already in the Act and we have let it through in the past. The overview of the bill states:

At present under the *Companion Animals Act 1998 (the Principal Act)* a Local Court may declare a dog to be a dangerous dog if it has (without provocation) attacked or killed a person or animal or has repeatedly threatened to attack or chase a person or animal.

I have not seen too many dogs threaten to attack or chase a person or animal. Dogs usually either chase or do not chase. I do not know how we could define "threatened to chase". I have always thought that in legislation we often make simple ideas complex. Schedule 1 [88] inserts new section 58A, which provides that if a council is of the opinion that a dog is of a breed or kind of dog listed in the Act as a restricted dog—for example, a pit bull—or is a crossbreed of any such breed or kind of dog, the council will be required to give the dog's owner a notice of the council's intention to declare the dog to be a restricted dog. The owner will be required to keep the dog under effective control and muzzled. After 28 days following the issuing of a notice of intention, the owner can provide a written statement by an approved breed assessor to the effect that the dog is not of a breed or kind on the restricted dog list or is not a crossbreed of such a breed or kind of dog.

Given that in recent years we have gone down the path of microchipping companion animals, perhaps a more simple system would involve supplying proof of breed when registering a dog and having that information entered on the microchip. Perhaps such information is already on the microchip system these days. Surely we can simplify the system in the interests of saving costs. A person might have a dog that wears a tag, and the dog may be too old to have been microchipped.

Given that in future every dog and cat will have to be microchipped at the point of sale, we need to consider simplifying the system, rather than having this toing and froing with documents proving this and that. It seems that we often tend to tie ourselves up in red tape. Of course, local government does not have the resources that State and Federal governments have. Perhaps we could assist local government by lowering the costs associated with proof of breed.

The Hon. Don Harwin appropriately expressed the Opposition's position. If the Government is set on a path of increasing fines for various offences, it ought to say so up front. The bill increases fines for offences in relation to not only dangerous dogs and restricted dogs but also, as I have explained, assistance dogs and so-called nuisance cats. I wish the Government would come clean and admit that the bill simply gives it yet another opportunity to raise revenue.

**Ms SYLVIA HALE** [4.27 p.m.]: This bill amends the Companion Animals Act 1998 to make further provision with respect to dangerous and restricted dogs, and the duties and responsibilities of their owners. The purpose of the bill is to increase penalties for certain offences under the Act and to consolidate enforcement powers under it. The community is entitled to be protected from attacks by dangerous dogs. We have all read stories about people, often the elderly and children, being attacked by dogs. The bill will allow councils to enforce the control of certain breeds, and to test the temperament of other dogs, including crossbreeds.

Unfortunately, whilst it can be argued that some breeds are more dangerous than others—for example, because they have larger and stronger jaws than other dogs and have been bred for hunting purposes—it is regrettable that some of those dogs are owned by people who encourage the development of vicious traits. It is often said that the behaviour of a dog resembles that of the owner. If a dog is bred to attack, it will attack. We have a responsibility to protect innocent members of the public from such dogs and their owners. The bill allows for any dog, no matter what its breed, to be declared dangerous. We support that measure, because any dog that has the misfortune to be maltreated, or is trained to be aggressive by an irresponsible owner, can harm people.

A council's powers to deal with such dogs, and with owners who do not follow the requirements to ensure that those dogs are kept in proper enclosures, muzzled, and so forth, have been extended, as have the penalties for owners who do not comply. The bill increases the maximum penalty for an attack by a restricted or dangerous dog to \$55,000, or imprisonment for two years, or both. For all other dogs, a recent regulation created

a new fixed penalty of \$550 for minor dog attacks. The Greens believe that the minor penalty is warranted: it warns dog owners whose dogs may have attacked someone for the first time to do something about their dog's or companion animal's behaviour, or to restrain it more effectively.

The bill specifies that councils must educate companion animal owners about their responsibilities. The Greens trust that adequate resources will be made available to councils to do so. On an earlier occasion my colleague Mr Ian Cohen argued that some small portion of the profits generated by the pet food and pet accessory industries should be made available for this purpose. We have spoken to the Canine Council of New South Wales, which stated that it is happy with the bill and supports it. The council does not recognise pit bull terriers as one of the 185 breeds it deals with.

With regard to other breeds that are not treated as restricted dogs under New South Wales legislation, such as Rottweilers or German shepherds, the Canine Council informed me that often breeders will breed for temperament—that is, not allow a particular dog to have offspring if they think its temperament is bad or very aggressive. The council also said that it believed that the bill is superior to similar legislation enacted in Queensland, as there will be a more detailed process related to the identification of a breed or crossbreed and a temperament testing process, in which the Canine Council will be involved. In the Act the current listed restricted dogs are:

- (a) pit bull terriers,
- (b) American pit bull terriers,
- (c) Japanese tosas,
- (d) Argentinian fighting dogs (*dogo Argentino*),
- (e) Brazilian fighting dogs (*fila Brasileiro*), and
- (f) any other dog of a breed, kind or description prescribed by the regulations as restricted for the purposes of this Division.

The Canine Council of the Australian Capital Territory said it is concerned that some breeds, such as Staffordshire bull terriers, may get caught up in the reference to pit bull terriers because the term "pit bull terrier" may cover breeds that the council claims are not inherently dangerous. However, the current legislation seems to exclude Staffordshire bull terriers, and we hope that the involvement of canine experts in identifying breeds and undertaking testing of temperament will ensure that no non-restricted dog that behaves itself will be caught by the legislation by mistake.

I have had limited time to look into this matter in any depth but I understand that attacks are not restricted to just a few breeds. There is some validity to the argument that certain types of people appear to be drawn to certain breeds of dog—that is, an aggressive, vicious person may choose a powerfully jawed or large dog that is known as a military, hunting or fighting breed. One example is the Alsatian, which once had a fearsome reputation and was the subject of Government action in the 1920s. Alsations were re-branded as German shepherds and are still used as guard dogs, but are generally not thought to be a suspect breed and are not restricted.

Some owners of American pit bulls may use these dogs as an extension of their own aggression and are more likely to be irresponsible owners. They pick breeds they think are more aggressive and then exaggerate those characteristics by training the dogs to be aggressive or by not training the dogs and allowing them to display and act upon any aggressive impulses. The intent of the bill is that restricted dogs—that is, the five identified breeds that are listed in the Act—be bred out of existence by requiring desexing and disallowing their sale or their being given away. The Minister said in his second reading speech that there is no place for these dogs on our streets.

On the one hand, some pit bull lovers have branded this as unfair and say that it will result in the extinction of a specific breed. On the other hand, other people might contend that humans have a history of crossbreeding dogs to produce specific breeds and that, therefore, we can also breed them out of existence. For example, human beings bred the dogo Argentino or the Argentinian fighting dog in the 1920s to hunt pumas and jaguars. Other dogs such as the Japanese tosa have been bred for dog fighting. The Japanese tosa is apparently twice as large as a bull-mastiff, making it rather formidable. American pit bull terriers were bred specifically for dog fighting. I note that similar laws banning certain breeds have been passed in other jurisdictions of Australia, in Ontario, Canada, and in other countries, and that most restricted dog lists include the American pit bull terrier, as well as other breeds such as half-wolf dogs.

The Greens would like the Minister, in his speech in reply, to address these issues and to refer us to any evidence as to what breeds, if any, are overrepresented in the 854 dog attacks he mentioned. Is the Government saying that a dog breed has specific genes predisposing it to attack or that once a specific breed of dog attacks it

can do more damage by virtue of its physical characteristics? This may be the case, but it would be good to hear a more coherent argument from the Government about these matters. The television program *Burke's Backyard* quoted statistics to the effect that Australian cattle dogs, bull terriers, Dobermans, German shepherds and Rottweilers were responsible for 75 per cent of all dog bites in Australia.

If the Minister has any further advice on statistics about dog attacks it would be informative to hear that information so that the threat posed by certain breeds is on the public record. We are all aware of high-profile news stories about horrific incidents of people being attacked by pit bull terriers, and three such attacks in close succession provoked the former Premier to move to specify the restricted breeds currently listed in the Act. There is little doubt, moreover, that pit bull terriers have historically featured in brutal dog fighting practices.

I will now briefly discuss the specifics of this bill. At present under the Companion Animals Act 1998, a council or Local Court may declare a dog to be a dangerous dog if it has, without provocation, attacked or killed a person or animal or has repeatedly threatened to attack or chase a person or animal. The bill extends council powers and increases penalties. Failure to comply with control requirements applying to a dangerous or restricted dog is an offence.

If the bill is passed, the maximum penalty will be increased from \$5,500 to \$16,500. Moreover, the dog can be seized by an authorised officer. The bill requires that dangerous and restricted dogs are subject to greater controls, such as being kept in an enclosure that complies with the requirements of the regulations, and made to wear a distinctive collar and be muzzled and on a lead when outside its enclosure. The bill will allow councils to determine that certain dogs, such as crossbreeds, are restricted dogs. If a dog is confirmed as a crossbreed of a restricted dog, the owner will then have to obtain a temperament test from an approved temperament assessor. If the dog is assessed as not likely to be a danger to the public, it will not be declared a restricted dog.

This is a positive safeguard to protect dogs that may, for instance, be the offspring of a bull terrier and, for example, a spaniel; and although they have one bull terrier parent they do not exhibit signs of aggressive behaviour. I understand that the Royal New South Wales Canine Council has agreed to conduct breed identification tests or to be involved in the conduct of these tests. The bill requires that restricted dogs be desexed—dangerous dogs are already required to be desexed within 28 days of being declared dangerous. A similar amendment would prohibit the sale—which includes the giving away, acquisition, and breeding of restricted dogs. This would have the result that over time certain breeds would reduce in prevalence.

The bill increases the penalties for most of the offences under the Act, particularly in relation to dangerous and restricted dogs, and consolidates and clarifies the enforcement powers, including the power of entry of authorised officers under the Act. It will enable animals that are seized under the authority of the Act to be taken to animal welfare shelters or to veterinary surgeons instead of to council pounds. The pounds and veterinary surgeons will have access to the companion animals register and can therefore check the animal's microchip and identify the owner quickly.

A council will also be able to deal with companion animals that come into the pound's possession otherwise than by being seized under the Act: for example, when a dangerous dog is found wandering the streets without any identifying mark or known owner. The bill also contains a number of other miscellaneous amendments arising out of the statutory review of the Act. The Greens support the bill in the interests of preserving the safety of the community. However, we should bear in mind the very real responsibilities that owners bear in shaping the temperament and disposition of their dogs.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [4.40 p.m.]: It is a dog's life. Yesterday we dealt with a special law to protect police dogs so that people who are attacked by them can be charged with animal cruelty when they try to protect themselves. Today we are dealing with a bill to desex dogs and ban their breeding because their owners have trained them to be savage, were cruel to them so they became savage, or otherwise allowed them to be savage. It appears that dogs are suffering for the misdeeds of their owners. A large amount of research has been done into nature versus nurture with regard to what creates the characteristics or personality of people. My understanding is that the research is fairly unequivocal but that it leans generally towards nurture. My experience of dogs would definitely suggest that the way a dog is raised is far more important than its breed.

I can remember that as a child we were very proud of our labrador, but German shepherds were regarded as being unsafe and likely to bite. At the time Alsations, as they were known—they later came to be known as German shepherds—were generally trained to protect used car yards or other such property. I know a

woman who was a victim of an attempted abduction. Someone locked himself inside her house and then in the small hours tried to abduct her. She fought him off and he escaped. He was never captured. She moved house and got herself a very large dog of a very savage breed. The problem was that she was such a kind person that the dog turned out to be the kindest sook of a dog you would ever meet. I do not think it would frighten anybody, except by its initial appearance. Sadly, I do not think it is much use to her for protection. This is an example of the way a dog is brought up being the major determinant of its behaviour. In May this year, following a five-year review of the Companion Animals Act, Mr Carr announced that laws would be introduced later this year to ban the sale, acquisition, breeding or giving away of pit bull terriers, American pit bulls, Japanese tosas, Argentinian fighting dogs or dogo Argentine, and Brazilian fighting dogs or fila Brasileiro.

The Government's aim is not only to minimise dog attacks. As s the member for Cessnock said in the other place, "The aim is to breed these dogs out of existence. We do not need them." It is not the dogs' fault; it is the owners' fault. It will certainly be upsetting to families that have these breeds as family pets, who love and care for them routinely and properly, to have this Government roundly condemning their beloved dog. Because some people breed these dogs to fight and to be aggressive, caring dog owners will have to suffer. We have been lobbied hard on the bill, as we were on the Act, by both organisations and individuals.

The World League for the Protection of Animals [WPLA] is not in favour of breed-specific legislation. The WPLA says there are more German shepherd attacks than pit bull attacks. Animal behaviourist Dr Kirsti Seksel, in a report commissioned by Bob Carr's Department of Local Government, stated:

Overseas experience has revealed that breed specific legislation has failed to reduce the incidence of dog attack... Breed alone is a poor indicator of whether or not an animal is going to be aggressive to humans.

She emphasised the need for public education and the proper management of dogs known to be aggressive. The WPLA does not believe in picking on a breed. It says that the majority of dog attacks are not by pure breeds. A tiny percentage of each breed, including crossbreeds, has the potential to be dangerous. The WPLA points out that when the Companion Animals Act was introduced in 1998 it was envisaged that a percentage of the funds from the registration of animals would be allocated to the education of pet owners. This has not happened. The WPLA believes that the education of owners is the key to reducing attacks, and that owners should follow the guidelines in the Act.

Bad behaviour is more to do with individual dogs and handling rather than specific breed. Where, we might ask the Government, has the money gone? It has disappeared into consolidated revenue as usual and not been allocated for the purpose for which the tax was raised. The Royal New South Wales Canine Council, through a media release in May this year directed at the Premier, vehemently opposed breed-specific legislation. The President, Mr Irwin, said:

As long as I draw breath I will fight breed specific legislation. My organisation and all its members are bitterly opposed to this type of legislation... We believe strongly in punishing the 'deed not the breed' and the state government must introduce educational programs promoting responsible dog ownership in our schools as a matter of urgency.

The position against breed-specific legislation is also supported by the Australian National Kennel Council, the Australian Veterinary Association, the Australian Companion Animal Council, the Endangered Dog Breeds Association of Australia and the American Pit Bull Association of Australia. I refer to the 2005 policies and positions paper of the Royal Society for the Prevention of Cruelty to Animals. Under section 3.4.4.1, which refers to the control of dangerous dogs, it states:

Any dog of any breed or mixture of breeds may be dangerous and thus the legislation to control dangerous dogs should not normally discriminate on the basis of breed. Declaration of dangerous dogs should be based on the behaviour of the dog rather than its breed.

That is quite an unequivocal statement. From reading the second reading speech I cannot see any organisation that deals with dogs that is in favour of the bill's position that specific breeds should be targeted. The American Veterinary Association's Task Force on Canine Aggression and Human-Canine Interactions entitled "A community approach to dog bite prevention", as published in the *Journal of the American Veterinary Medicine Association*, volume 218, No. 11 of 1 June 2001, says:

**Breed or type bans**—Concerns about "dangerous" dogs have caused many local governments to consider supplementing the existing animal control laws with ordinances directed toward control of specific breeds or types of dogs. Members of the Task Force believe such ordinances are inappropriate and ineffective.

A study titled "Dog bites to humans—demography, epidemiology, injury and risk" by Karen Overall and Molly Love, in the *Journal of the American Veterinary Medical Association*, volume 218, No. 12, of 15 June 2001, at page 1927, states:

**Breeds, perceptions, behaviour, and bites**—A number of investigators have attempted to find a relationship between breed and dog bites... There are 3 methods by which we can estimate the effect of breed on reported bite incidence. Breed-specific bite rates indicate what percentage of dogs of a specific breed were involved in biting incidence. This requires that we know populations of all biting and nonbiting individuals—data that are rarely available. Relative risk indicates how much more or less likely a specific breed is to be involved in a bite incident, compared with other breeds. Again, this requires a good estimate of populations of all breeds.

The population attributable fraction percentage (PAF%) is a measure of a breed's impact on the overall population. The PAF% is often calculated by using licence records to estimate breed populations. Numbers obtained from this approach may be quite different from the actual populations, because in many locales, licensing compliance is low. No single database is available that would provide complete information for any of these methods.

Effectively, what is being said is that generally there is no data to support that. Some of the best researchers in the world are collecting data. The Injury Control Council of Western Australia commissioned Dr Robert Holmes to write a report, which was entitled "The Injury Issues of Dog Attacks and Bites". At page 3 of that report Dr Holmes states:

Concentrating on restricting certain breeds may yet prove to be counterproductive in the long term goal of reducing injury rates. It may be distracting us from identifying the important causes of dog attacks and bites. Overseas experience has failed to show a reduction in dog-related injuries after certain breeds have been restricted.

Dr Holmes goes on to state:

The grossly disproportionate injury rate to children of 12-18 months old can be accounted for by the behaviour of the toddler that is unfamiliar to a dog that has not been adequately socialised to this particular type of human. The dog is a "child magnet". The child causes anxiety in the dog. Neither understands the body and vocal language of the other. The dog tries to keep the child away from it by biting the nearest body part, most commonly the head region.

In 2004 the Federal Australian Democrats moved a disallowance motion that would have allowed the importation of dangerous dog breeds for scientific purposes. Generally, the Democrats do not agree with the use of large animals for experiments or scientific purposes and they saw no reason to allow their importation for that purpose. Senator Bartlett said in his speech that dog attack figures really are "... very much a result of a lack of responsibility on the part of the pet owner than any inherent danger in dogs in general". Even if it were shown that certain dog breeds attacked humans more than others, it might well be that that breed had been chosen to play a guard dog role.

If, for sociological reasons, a dog had been chosen as a defensive dog, an attacking dog or a dog to protect property, obviously such a dog would be more likely to attack anyone who came near it, and that would increase the bite statistics. The bill will make it an offence to breed, advertise, sell or acquire a restricted dog. Restricted dogs will also be compulsorily desexed. The requirements to enclose the dog and ensure that children cannot get into those enclosures will be strengthened. When a dog is outside the enclosure it must be on a lead and muzzled at all times.

A person will be able to have only two dogs under his or her control in public if one dog is a restricted breed. The dog will also have to wear a distinctive reflective collar. The bill will dramatically increase fines and terms of imprisonment. The fine for a dog attack by a restricted breed or dangerous dog will be increased to a maximum of \$55,000—which is 500 penalty units—or imprisonment for two years, or both, which seems a little extreme to me. New section 16 (1A) (a) states that the penalties for dog attacks or bites apply whether or not there is injury to a person. The definition of "attack" is not contained in the principal Act. However, section 16 also states:

**Offences where dog attacks person or animal**

- (1) If a dog rushes at, attacks, bites, harasses or chases any person or animal (other than vermin), whether or not any injury is caused to the person or animal...

If a dog rushes at a person and stops and does not bite or chase that person, is that an attack? The Act is not clear on that point. In many sections the alternatives that are given—attacks or bites—constitute an offence. Section 17 states:

**Dog must not be encouraged to attack**

- (1) A person who sets on or urges a dog to attack, bite, harass or chase any person or animal (other than vermin) is guilty of an offence, whether or not actual injury is caused.

I ask the Minister in his reply to clarify what "attack" means. The bill will also increase fixed and maximum penalties for other dogs. On the enforcement side, which is dealt with in new section 18 (1), the present four-hour period to seize a dog after an attack will be extended to 72 hours. If we compare the bill with legislation in other States we find that Queensland, Victoria and South Australia already have in place restricted breed legislation. The Minister also said that other States and Territories are looking at implementing legislation and that all relevant Ministers anticipate achieving a co-ordinated national approach. That has not happened as yet.

The Government, once again, has drafted a bill in response to sensational television reports on dog attacks that have occurred anywhere in Australia. Obviously dog owners need to be educated. If they do not comply with the legislation they need to be disciplined. However, making a dog guilty because it belongs to one breed seems to be heavy handed and unfair. It is worth noting that in South Australia, which effectively banned pit bull terriers in 1992, statistics show that from 1991 to 2002 the number of dog attacks remained virtually static. The list of breeds that attack is most interesting. At the head of the list are Rottweilers, representing about 20 per cent, and next on the list are Jack Russell terriers. People might recall the following quote by Mark Twain:

It's not the size of the dog in the fight, it's the size of the fight in the dog.

These attacks by Jack Russell terriers might give some substance to that comment and surprise some people. In my experience, it seems about right. Following Jack Russell terriers on the list are German shepherds, bull terriers of all types, kelpies, Dobermans and blue heelers. Those six breeds comprise 26 per cent of the dog population but they are responsible for 55 per cent of all attacks. Imagine the outcry if we suggested banning Jack Russell terriers! It would mean electoral defeat for any party that was so foolhardy. I agree, as do all organisations that oppose breed-specific legislation, that dangerous dogs must be controlled and, if necessary, dealt with. The RSPCA agrees with all measures regarding dangerous dogs, such as their being enclosed, muzzled in public and desexed. It does not agree that one breed or another should be singled out and that all dogs of that breed effectively should be declared dangerous.

As with so many bills that are introduced in this House, the Opposition will vote with the Government. It is futile to propose amendments to remove the reference to breeds and to retain the dangerous dog provisions. I stated my position, which is supported by every dog association and by most of the published literature. It is very worrying that the Government is quite happy to increase penalties in this legislation. Such a move is not supported by any of the bodies that have conducted reputable research. The Government will not allocate money to educate dog owners, which is what needs to be done. That is something the Government promised to do when the Companion Animals Act received assent.

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [4.58 p.m.], in reply: I thank all honourable members for their contributions to the debate on the Companion Animals Amendment Bill. I shall respond to a few of the issues that were raised. I refer, first, to cost shifting to local councils. It should be noted that councils have long had responsibility for the management of companion animals in their areas. In 1966 my first job in Wellington shire council was to introduce the Dog Act. Councils receive 80 per cent of the \$4.6 million in annual revenue that is collected by the Companion Animal Fund from the register of cats and dogs in New South Wales. The balance supports the Companion Animals Unit, which manages the statewide register, as well as education and grants programs to support councils.

The Local Government and Shires Associations requested that the Government provide it with the power to ban restricted dogs in its areas. Associations and the rangers institute have been supportive of the need to introduce a prohibition on restricted dogs and to provide stronger enforcement controls for restricted and dangerous breeds. As I said earlier, the money goes to local government and not to the State. The Infringement Processing Bureau collects a processing fee and the rest goes to local government.

The Hon. Patricia Forsythe's reasonable and astute comment was that some dogs attack more than others because there are more of them. I have statistics to support that claim. In 2004-05 the Department of Local Government reported the number of attacks by the top five pure breeds as follows: 28,850 Australian cattle dogs, 85 attacks; 23,735 Rottweilers, 78 attacks; 35,711 German shepherds, 72 attacks; 40,776

Staffordshire bull terriers, 68 attacks; and only 3,244 American pit bulls and pit bull terriers—less than 10 per cent of all the others—with 56 attacks. Pit bull terriers attack 10 times more often than the other four breeds I have mentioned. I concur with the comments of the Hon. Patricia Forsythe, and I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## **BUSINESS OF THE HOUSE**

### **Suspension of Standing and Sessional Orders**

**Motion by Mr Ian Cohen agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 181 outside the Order of Precedence, relating to interstate freight on the Pacific Highway, be called on forthwith.

### **Order of Business**

**Motion by Mr Ian Cohen agreed to:**

That Private Members' Business item No. 181 outside the Order of Precedence be called on forthwith.

## **PACIFIC HIGHWAY FREIGHT TRANSPORT**

**Debate resumed from an earlier hour.**

**The DEPUTY-PRESIDENT (The Hon. Amanda Fazio):** Order! Prior to the debate being adjourned until a later hour of the sitting on the motion of Mr Ian Cohen, Mr Ian Cohen had sought leave of the House to amend his motion. It is highly irregular for the mover of a motion to seek leave to amend a motion when speaking in reply. A member desiring to amend his or her own motion should do so by seeking leave to do so prior to moving the motion. Alternatively, the member could seek to have another member move an amendment to the motion during the course of the debate. The amendment of Mr Ian Cohen is, therefore, inadmissible and the motion before the House is the motion as originally moved by him. As requested by the Deputy Leader of the Opposition I propose to put questions on each paragraph of the motion seriatim.

**Paragraph (a) of the motion agreed to.**

**Question—That paragraph (b) of the motion by agreed to—put.**

**The House divided.**

### **Ayes, 20**

Mr Breen	Mr Gay	Mrs Pavey
Dr Chesterfield-Evans	Ms Hale	Mr Pearce
Mr Clarke	Mr Lynn	Ms Rhiannon
Mr Cohen	Reverend Dr Moyes	Dr Wong
Ms Cusack	Reverend Nile	<i>Tellers,</i>
Mrs Forsythe	Mr Oldfield	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

### **Noes, 15**

Ms Burnswoods	Ms Griffin	Mr Tsang
Mr Catanzariti	Mr Kelly	
Mr Costa	Mr Macdonald	
Mr Della Bosca	Mr Obeid	<i>Tellers,</i>
Mr Donnelly	Ms Robertson	Mr Primrose
Ms Fazio	Ms Sharpe	Mr West

**Pairs**

Mr Gallacher  
Mr Ryan

Mr Hatzistergos  
Mr Roozendaal

**Question resolved in the affirmative.**

**Paragraph (b) of the motion agreed to.**

**Paragraph (c) of the motion negatived.**

**Paragraph (d) of the motion negatived.**

**PRIVILEGES COMMITTEE****Membership**

**Motion, by leave, by the Hon. Peter Primrose agreed to:**

That Mr Catanzariti be discharged from the Privileges Committee and that Ms Sharpe be appointed as a member in his place.

**LEGISLATION REVIEW COMMITTEE****Membership**

**Motion, by leave, by the Hon. Peter Primrose agreed to:**

That Mr Primrose be discharged from the Legislation Review Committee and that Ms Sharpe be appointed as a member in his place.

*Later,*

**Message forwarded to the Legislative Assembly advising it of the resolution.**

**SPECIAL ADJOURNMENT**

**Motion by the Hon. Tony Kelly agreed to:**

That this House at its rising today do adjourn until Tuesday 29 November 2005 at 2.30 p.m.

**ADJOURNMENT**

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [5.14 p.m.]: I move:

That this House do now adjourn.

**STRATA MANAGEMENT SCHEMES**

**The Hon. KAYEE GRIFFIN** [5.14 p.m.]: Buying into a strata scheme can mean confusion for some people not accustomed to living under a strata scheme. I have recently moved into an estate that is under a strata scheme. I did not have any previous experience living under a strata scheme so I was not fully aware of my rights and responsibilities as a lot owner. The Department of Fair Trading has published two information booklets entitled *Buying into a Strata Scheme: Some things you should know before you sign up* and *Strata Living: What you should know about residential, commercial and other Strata schemes*. These publications offer both property owners and tenants information on their rights and responsibilities of living under strata management.

The first publication is a concise booklet outlining what property owners should be aware of before buying into a scheme. It was prepared to highlight some of the important aspects of living in a strata scheme and to provide people with an understanding of their rights and responsibilities. It is extremely helpful for people who have never lived under a strata scheme and for those who may not be aware of the differences between strata living and individual property ownership.



Strata schemes are small communities where the activities and attitudes of residents can have an effect on the living standards and enjoyment of others in the residential block. Many people living in an apartment block or estate are not aware of their obligations regarding the other residents. The booklet defines strata schemes and includes answers to commonly asked questions, for example, what belongs to the owner and what is common property?

One of the major differences between owning a house and owning a lot in a strata scheme is that the external walls, floors and roof do not usually belong to a lot owner. These areas are known as common property and they are usually the responsibility of the owners' corporation. Because these areas are considered common property, the lot owner is not allowed to alter or renovate these areas without the permission of the owners' corporation. The owners' corporation is a body made up of all owners in the scheme. Each lot owner is part of the owners' corporation and has a right to participate in the corporation's decision making. The owners' corporation usually meets on a regular basis to discuss any issues or concerns the owners may have.

The owners are also responsible for a sinking fund. The sinking fund covers the cost of normal day-to-day expenses that any other homeowner would have to pay, such as council rates, electricity and water rates for common areas, and insurance and maintenance of the common property. The idea of the sinking fund is to have enough money available when a job needs to be done, rather than the owners being requested to come up with large amounts of money for any unforeseen repairs to the estate or block.

The booklet also highlights the individual responsibilities of the owners and tenants when it comes to keeping animals, parking in common areas, noise pollution, and changing the appearance of a lot. Each corporation has a bylaw on the keeping of animals. In most cases no animals can be kept without prior permission of the owners' corporation. No-one can park on any part of the common property without the prior permission of the owners' corporation. Individual lot owners cannot advise visitors to park on any part of the common property.

Noise is a common issue facing people living under a strata scheme, where people live quite close together. Most people living in such circumstances are well aware of their neighbours and do not cause any discomfort to other residents. However, most strata schemes have bylaws relating to noise. The booklet emphasises the responsibilities of owners and tenants to ensure they minimise noise for the comfort of all residents. Although I am sure that most people living under strata schemes abide by the laws of the scheme, unfortunately disputes and conflicts arise in some cases. This booklet helps people understand the obligations of living under the scheme and highlights what they can expect when living under a strata scheme.

The second booklet, *Strata Living*, goes into great detail about owners' rights and responsibilities with respect to the owners' corporation. It informs owners how to move motions and conduct their meetings, including annual general meetings. For people with no previous experience in running or attending meetings the booklet covers all aspects of taking an active role in an owners' corporation meeting. The booklet also assists if a dispute arises. It has useful points on conflict resolution and advice for disputes that require independent mediation and adjudication. These useful booklets are fantastic tools for people like me who are not familiar with living under a strata scheme and I commend the Department of Fair Trading for the great work it has done in publishing them.

## **METROPOLITAN LOCAL ABORIGINAL LAND COUNCIL TRAINEES GRADUATION**

**Mr IAN COHEN** [5.19 p.m.]: I would like to relate a speech by Rob Welsh, chairperson of the Metropolitan Aboriginal Land Council and Metropolitan Aboriginal Association, who addressed a council trainee graduation. He said:

One of our elders here tonight is my father, Ray Welsh. Dad is a Kinchela Boy and one of the Stolen Generations. When Dad was nine years old he broke his leg in a horse riding accident in Brewarina. He was taken to hospital in Sydney. After his leg healed, instead of being returned to his family in Brewarina he was sent to the Kinchela Boys Home in Kempsey in northern New South Wales. He wasn't allowed to see his parents again until after he turned 18. More than 400 young Aboriginal boys between five and fifteen were taken from their families and sent to Kinchela between 1924 and 1971. The boys received poor education and an inadequate diet, and many suffered beatings and other terrible, terrible forms of abuse.

All up, there were more than Fifty thousand young Aboriginal people around Australia who were taken away between 1910 and 1970. Among the worst things that happened to the stolen generations was that they weren't allowed to speak their language or practice their culture. Their identity was stolen from them, just as they were stolen from their families and their communities. My Dad was determined that his children and grandchildren should never have their culture stolen from them. He has always encouraged us to reclaim our culture and be proud that we are Aboriginal. For that reason, he's very pleased that two of his grandchildren will be graduating as Aboriginal sites officers tonight. I know that this pride is shared by the families of all our trainees.

Being the first graduates of our Metro Land Council and Metro Aboriginal Association course is a fantastic achievement. They've worked hard, gained a TAFE qualification and helped keep our culture alive. For the past year, our trainees have learnt how to identify and maintain cultural places, recognize and plant native vegetation, guide tour groups and master a range of other practical skills. They've got their surf lifesaving bronze medallions and their senior first aid certificates. They've also made history, by participating in the largest ever repatriation of Aboriginal remains from Australian Museums to a metropolitan Aboriginal community in NSW.

The repatriation has seen the remains of up to fifty Aboriginal people reburied in National Park sites around Sydney. Our trainees identified the sites for the reburials and prepared the remains in the traditional way. The remains of some of our ancestors had been in museums for more than a hundred years. But our trainees returned them to their own country with their own people. The members of the Metro Land Council wanted to introduce the course because it's vital that more Aboriginal people learn how to protect and rehabilitate sites of significance. The rock engravings around Sydney's bush and suburbs make up one of the world's greatest art galleries. Some of the local engravings are more than a thousand years old but they're frequently damaged by vandals.

Our members realized that we needed to pass on the knowledge to a new generation to ensure these sacred places are maintained. It was also important that half of our new trainees were women. Since colonization there's been practically no protection of Aboriginal women's sites in Sydney because almost all our site protection officers have been men. For cultural reasons our men are not permitted to enter women's sites. So tonight we will also make history because four of our graduates are the first women in Sydney to become Aboriginal sites officers.

Metro Land Council and the Metropolitan Aboriginal Association were determined to introduce the program because we want to find employment opportunities for young people by maintaining Aboriginal culture. Creating jobs and building pride in our culture are two of the most important things this Land Council can do to help our people. Already the Department of Environment and Conservation has employed one of our trainees and we're looking to have others employed with local Governments and Aboriginal Land Councils. We're also looking to contract our sites officers out to the RTA, Sydney Water and throughout the construction industry. Eventually we'd also like to establish our own tourism business to show visitors our rock art and teach them about Sydney's Aboriginal heritage. Of course, none of this would be possible without the support and hard work of a lot of people.

The members of the Metro Land Council identified the need for traineeships as part of our five-year business plan and approved the course. Rebecca Rasso secured the funding for the traineeships and established our partnership with TAFE to teach the units. She also gave support to the trainees. Thank you, Rebecca. TAFE New South Wales—Northern Sydney Institute's Ryde College ran the course with support from the Institute's Gamarada Aboriginal Education & Training Unit. Thank you. Many TAFE staff should be thanked, particularly Eddie Goodall. Thank you very much. We also received a great deal of help from the staff of the Department of Environment and Conservation, who were generous with their knowledge and time. These included Adrienne Howe-Piening, Brad Welsh, Dean Kelly and Bobby Sutherland. Thank you.

Metro Land Council's Cultural and Education Officer, Allen Madden was part of the team that helped design the structure of the course and shared his great knowledge of our culture and history with our trainees. He is a mentor and guide to any Aboriginal person seeking to find out more about our heritage in Sydney. Thanks Al. Allen and myself are also directors of the Metropolitan Aboriginal Association. Our fellow directors Marge Treweek, Ricky Lyons, Lavina Lyons and Alan Murray supported the program every step of the way. But most of all, tonight is about our trainees. Shiralee Cohen, Nathan Fuller-Lyons, Desi Madden and Rowena Welsh-Jarrett will receive their Certificates in Conservation and Land Management tonight. Buddy Gordon, Bella Williams, Lisa Davis and David Welsh will receive their Certificates after they complete their final units over the next few weeks. Completing their traineeship is a tremendous achievement that required hard work and dedication. But with achievement comes greater responsibility. Tonight and over the coming weeks, all of you will move from trainees to guardians of our culture and role models for our community.

#### ABORTIFACIENT RU 486

**The Hon. ROBYN PARKER** [5.24 p.m.]: There is an alarming trend developing in Australian politics creating unnecessary tension over the provision of health services for women. All too often these issues get hijacked by personal, moral and religious crusades when sound medical research and evidence should be the primary factors taken into account. Recently, there has been a threatened reduction in the number of invitro fertilization [IVF] treatments available, a revival of the abortion funding debate, a reluctance to fund the breast cancer drug herception, and in New South Wales a reduction in the target age group able to access free breast screening. Now the debate about RU 486 has become less about medical choices and more about moral judgments. Despite attempts by politicians, churches, and pro-life and other groups to muddy the waters in the debate about abortion and the drug RU 486, there are some very black and white arguments and points to be made.

This should not be a debate about the legality of abortion; this should be a debate about medical choices. Medically supervised termination is effectively legal in Australia. Women in Australia deserve the full range of safe medical options with regard to decisions about their reproductive health. Women deserve to access these choices on an equitable basis. RU 486 has been trialled and licensed for use in many developed countries, including the United Kingdom and Ireland, the United States of America, China, France, Germany and throughout Scandinavia. In some United Kingdom hospitals, 60 per cent of abortions are now performed medically, not surgically. The Therapeutic Goods Administration [TGA] originally approved the use of RU 486 in Australia in 1980 but in 1996 the Federal Parliament passed an amendment to the Therapeutic Goods Administration Act subjecting the drug's importation to approval by the Federal Minister for Health.

This has effectively banned the drug for nearly a decade. The Federal Health Minister's decision this week to uphold the ban on RU 486 despite favourable advice from leading obstetricians and gynaecologists is perplexing. The TGA writes on its website that all applications for drug registration must be done in accordance with international best practice, including clinical trials. It notes that "decisions are then made on the science, not the morality of the drug in question". There is overwhelming evidence that the provision of a safe and accessible induced abortion is a major factor in preserving the reproductive health of women. Extensive trialling of RU 486 has taken place with over two million women in Europe and the United States. The World Health Organisation, the Australian Medical Association [AMA], the Royal Australian College of Obstetricians and Gynaecologists and the Public Health Association of Australia all agree that RU 486 should be made available under medical supervision.

The Royal College of Obstetricians and Gynaecologists in the United Kingdom recommends non-surgical abortion in preference to surgical abortion for women with pregnancies of 49 days or less. David Healy, Professor of Obstetrics and Gynaecology at Monash University, has stated that surgical abortion is no longer the best treatment available for Australian women. In addition, the Chairwoman of the AMA's Women and Medicine Committee, Dr Amanda McBride, has stated that RU 486 has been scientifically proven to be safer than surgical abortion. It is when the discussion of RU 486 goes beyond medicine and health and reaches the Parliament that the issues get corrupted. To date, parliamentary debate about RU 486 has related very little to women's reproductive health and has been geared more toward moral fixations and political manoeuvring.

Now the debate on lifting the ban on RU 486 may be decided by a Federal parliamentary conscience vote. This belies the facts regarding legality and puts the debate back to where it should not be—with the moral indignation or religious beliefs of individual politicians. Much of the recent debate surrounding RU 486 and a desire to keep the ban in place has centred on the possible side effects of the drug. The side effects associated with any procedure or drug impacts on its acceptability and uptake. Health issues should never been downplayed or exaggerated. However, false accusations about RU 486 should not be left unchallenged. There are still many side effects listed for the contraceptive pill. Despite this, it has been widely accepted and used since its introduction in Australia in 1961.

It continues to be one of the most regularly tested medications in the world. Furthermore, it is an insult to women to suggest that the decision to terminate a pregnancy is ever easy. Women should have as many safe and informed choices as possible with regard to their health. They should be able to make that decision with their doctor and not have their choices determined for them by middle-aged male politicians. Obstetric care needs to be available to all Australian women on an equitable basis.

There are legitimate complaints in some rural and regional areas that women do not have reasonable access to the gynaecologist and anaesthetist required for a surgical abortion. The Rural Doctors Association of Australia concur with this assessment and rightly object to any suggestion that they would not be able to effectively manage a planned medical miscarriage when they treat the one-in-six to one-in-ten pregnancies that end in spontaneous miscarriage. Enforcing the ban on RU 486 relegate women in regional areas to the status of second-class citizens. [*Time expired.*]

## **SANDON POINT RESIDENTIAL DEVELOPMENT**

### **CITY WEST HOUSING DEVELOPMENT**

**Ms SYLVIA HALE** [5.29 p.m.]: Yesterday the Minister for Planning, Frank Sartor, announced the findings of the farcical review set up by his department to overturn the findings of the Commission of Inquiry into Sandon Point. In his announcement the Minister displayed one of the most spectacular cases of spin doctoring yet evidenced by this Government. His attempt to dress up the findings of this latest review as a win for the environment and for the local community is nothing short of claptrap. The review, carried out by Charles Hill, was a blatant move by the Government to alter and manipulate the findings of the Commission of Inquiry into Sandon Point to deliver an outcome better suited to the wishes of the developer, Stocklands, and the Labor-dominated Wollongong Council.

Sandon Point is a place of great environmental and cultural importance. It is the site of a 6,000-year-old Aboriginal burial ground and has been the source of a 20-year community campaign. The proposed development has been so unpopular that the Government was forced to hold a commission of inquiry in 2003. That inquiry handed down recommendations that no-one was totally happy with—not the aboriginal community, not Stocklands, not the council, and not the local community. No-one was happy, but it was seen at the time to deliver recommendations that were an acceptable compromise between competing interests.

The development was to proceed, but with significant changes. The number of proposed houses was to be reduced in order to protect environmental values and Aboriginal heritage. At the time, Stocklands supposedly welcomed the findings in the local media, but its actions spoke otherwise. Within a week of the release of the inquiry's recommendations, Stocklands began excavation works on the site, despite the works being in an area recommended by the commission for preservation. Throughout the long-running campaign Stocklands has consistently ignored the concerns of the community.

Despite the recommendations being regarded as a compromise that could be accepted by most parties, they meant that the State Government, Wollongong council and Stocklands did not get everything they wanted. So, the then Minister for Planning, Craig Knowles, established a charade of a review. Yesterday the review finally delivered what Labor and its developer mate Stocklands have wanted all along. The review has finally delivered what the commission of inquiry failed to provide—more houses on the site, environmental destruction, and a wanton destruction of Aboriginal heritage. The decision handed down by Charles Hill—and whipped into a green-tinged blancmange by the Minister—is worse than the original recommendations of the inquiry.

The Minister's claim that there are big environmental gains in this decision is just cynical nonsense. The new plans are now almost identical to the proposed plans prior to the commission of inquiry. The new plan contradicts the Government's coastal protection policies, and will see the addition of an intensive development on the Cookson Plibrico industrial land. The announcement by the Minister yesterday has taken to new heights the extent to which the Government will distort and manipulate the State's planning system to deliver for its big donor mates. It is a disgraceful indictment. But the local residents and the Aboriginal community will not give up the fight to save and protect Sandon Point.

Yesterday I spoke about my visit to the offices of City West Housing Pty Ltd. I made the point that tenants for City West Housing properties are drawn from three income bands, and that the housing company goes to great lengths to ensure that those tenants are represented in relatively equal proportions in its housing divisions. The company does that because it knows there is a cross-subsidisation of those in the smallest income band by those in the largest income band. This makes the City West Housing corporation an economically viable and successful institution. Because wealthier tenants cross-subsidise less wealthy tenants, it is a viable organisation that, according to various reviews, usually gains about a 90 per cent approval rating.

The policies of City West Housing are in stark contrast to those of the Department of Housing, which now restricts public housing eligibility to people on the lowest possible income. This means that there is no cross-subsidisation and there are no funds for the maintenance of public housing. We have in our midst in Pyrmont-Ultimo a very successful model. It is beyond belief that—[*Time expired.*]

#### **FRANCIS DE GROOT, IRISH FASCIST AUSTRALIAN LEGEND LAUNCH**

**The Hon. CHRISTINE ROBERTSON** [5.34 p.m.]: On Tuesday 15 November I had the pleasure of attending the launch of a book entitled *Francis De Groot, Irish Fascist Australian Legend*, which was written by Andrew Moore, an associate professor of history and a research co-ordinator in the School of Humanities at the University of Western Sydney. The book was launched by the Hon. Bob Debus, Attorney General, Minister for the Environment and Minister for the Arts, in Parliament House. The Parliament has in its care the sabre used by Francis De Groot in his infamous adventure. I was unable to attend the formalities held following the launch, but I made sure I obtained a copy of the book.

Sydney Harbour Bridge and Francis De Groot have formed part of the mythology of our family for as long as I can remember. I am sure it was my father who first told me that my paternal grandfather, Carr, was the policeman who pulled De Groot from the horse. I have repeated this for years and honestly believed the story. Following the release of the book, further enquiry of my family revealed that my grandfather was at least on the bridge that day. However, I still feel attached to the story. My grandfather, originally a drover from Guyra in New South Wales, was a policeman on Saturday 19 March 1932 when Francis De Groot beat Premier Lang to the ribbon on Sydney Harbour Bridge opening day. When my grandfather died in July 1962, he was a crown sergeant and had run the police service in Nowra for many years. He studied at night school to pass the police exams and gain promotion. My grandfather was given a full police funeral in Nowra, and it was the first police funeral ever to be televised.

However, back to the fascists, and 1932, a very interesting time in our history. There was the Great Depression, and there were a lot of extremist far right-wing fascists who believed that democracy was a

dangerous thing. In the usual fashion of far right-wing individuals and groups, any method, including violence to remove the population's democratic rights, was considered acceptable. Incidents of violence and seditious plots abounded. There was an incident in Bankstown on 26 February 1932 in which a small meeting of the United Front against Fascism was violently attacked by a group of New Guard enthusiasts. Two-hundred New Guardsmen in 37 motor vehicles engaged in "The Battle of Bankstown". There were violent skirmishes throughout the suburbs, and the New Guard were mobilising.

There were two "Guards", the New and the Old. The Old were made up of more conservative types who worked with the Federal Conservative Government to punish the New South Wales Labor Government by introducing the so-called garnishee bill to force New South Wales to pay interest debts which would clearly have impacted on New South Wales' ability to maintain essential services such as "susso", which was crucial, given that so many people were unemployed. It is interesting the way old tricks come back to haunt the present. The Old Guard would have been needed to discipline the unemployed. Both groups were a form of militia.

At the time the bridge was opened, there were multiple plots by the New Guard to physically remove, kidnap or hurt Premier Lang. The information is somewhat confused by the multiplicity of information sources, but it is another example of the New Guard's dangerous direction. The police were very concerned about the actions of the group, and several were following them and watching their actions. The actions by Francis De Groot removed the need. Whether De Groot did this on purpose, or merely as a brave renegade action, is probably a matter for debate. However, as Andrew Moore said, it has caused "the New Guard to be remembered more for its buffoonery than for its serious and seditious intentions". This may explain why Australian right wing groups have not cherished Frank's memory. Laughing off this incident, Andrew Moore said:

[It] misrepresents the nature and potential of the De Groot incident. It also diminishes the reality of the dangers of right wing extremism in Australia. It is true that Australians have traditionally sought the "middle way", eschewing extremes of both the left and right, adhering to the ballot box and parliamentary democracy. Yet the case of the New Guard, perilously close to storming Parliament House by force, a right-wing menace largely out of control, suggests that the hegemony of social democratic principles and practices, the structures of responsible government, should not be taken for granted. Australian fascism may not have embraced an antipodean Kristallnacht, but neither should its force or appeal be underestimated in the "quiet continent".

I would like to pay tribute to Andrew Moore for writing this most interesting book, which I am still reading. I will still remember my grandfather being involved, but the book is teaching me why my concerns about far right-wing movements in our tentatively democratic society are very real.

### BOARDING HOUSE SEMINAR

**The Hon. JOHN RYAN** [5.39 p.m.]: I wish to inform the House about a seminar on boarding houses I conducted at Parliament House on 26 October 2005. Boarding houses—or licensed residential centres as they are formally known—that have more than two people with disabilities living in them are required to be licensed under the provisions of the Youth and Community Services Act. There are some 30 licensed boarding houses in New South Wales, accommodating more than 1,000 residents. Although the standard of care in those facilities is acceptable, legislation is required to standardise services and modernise regulations.

Many boarding house residents have a mental illness, an intellectual disability, or acquired brain injuries. The residents are extremely dependant upon owners or house managers, who often make important decisions for residents with regard to their medical needs, recreational activities, daily living expenses and, in some instances, even the clothes they wear. Often individuals pay a large portion of their pension to the owner, who uses the money to feed, clothe and house them, and in some cases to give them access to recreation.

The legislation that regulates boarding houses is more than 30 years old and is sorely in need of reform. The current licensing regime has four categories listed, A, B, C and D, which primarily address the physical and structural standards of boarding houses. Some 73 per cent of boarding house residents currently live under the conditions of an A licence. Such licences were issued prior to 1995 and have the least stringent conditions. The New South Wales Ombudsman, and in fact the New South Wales Government, have reports that detail reasons why the Youth and Community Services Act seriously needs reform. In a private report completed in 2004 the New South Wales Ombudsman found that the Department of Ageing, Disability and Home Care [DADHC] did not have sufficient power to enforce licensing conditions in compliance with regulations.

The Ombudsman indicated that vulnerable residents were exposed to abuse, neglect and even sexual assault. He cited allegations of physical and sexual abuse, and identified one allegation of rape. Importantly, the report found that DADHC did not have the legal authority to actively intervene. Other important issues left unaddressed by current legislation, which are covered by other States, include the need for a check of criminal

records for staff, the provision of adequate staff, the handling of residents' money, requirements for standardising residents' medication requirements, and the operation of screening tools designed to ensure that people with serious high-support needs who should not be living in boarding houses are placed in suitable accommodation.

The people who attended my seminar represent the whole spectrum of the boarding house industry. They included representatives of the New South Wales Residential Carers Association, which is the peak body representing boarding house owners, the Coalition for Appropriate Supported Accommodation, the Council of Social Service of New South Wales, the New South Wales Tenants Union, the St Vincent de Paul Society, the Council for Intellectual Disability, the Mental Health Association, People with Disability Australia, Mary McKillop Outreach, the Active Linking Initiative, the boarding house team from NSW Health, the Intellectual Disability Rights Service, and Aftercare. It was a comprehensive group of about 30 or 40 people.

In addition to the group consensus about the need for reform, I discovered at the seminar that the licensed owners of boarding houses also want reform. Indeed, they have written to the Minister and the New South Wales Ombudsman expressing concern that licences granted under the Youth and Community Services Act are not transferable. They are frustrated because this prevents them from selling their businesses. The restriction also means that owners are reluctant to make capital investment in their properties or to improve the standard of their accommodation.

Another issue that was drawn to my attention is the serious problem of unlicensed boarding houses. I had the opportunity to visit many unlicensed boarding houses, and I have issued a press release outlining some of the outrageous things I saw. In some cases fire safety standards and other health and important care standards were completely ignored in this underworld of unlicensed boarding houses, although many, many people with disabilities and/or mental health problems live in the accommodation they provide.

*[Time for debate expired.]*

**Motion agreed to.**

**The House adjourned at 5.44 p.m. until Tuesday 29 November 2005 at 2.30 p.m.**

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