

LEGISLATIVE COUNCIL

Thursday 25 February 2010

The President (The Hon. Amanda Ruth Fazio) took the chair at 11.00 a.m.

The President read the Prayers.

TEMPORARY CHAIR OF COMMITTEES

The PRESIDENT: I nominate the Hon. Shaoquett Moselmane to act as Temporary Chair of Committees during the present session of the Parliament.

BUDGET 2009-2010

Production of Documents: Tabling of Report of Independent Legal Arbiter

Motion by the Hon. Greg Pearce agreed to:

- 1 That the report of the Independent Legal Arbiter, Sir Laurence Street, dated 11 December 2009, on the disputed claim of privilege on papers relating to the 2009-2010 Budget, be laid on the table by the Clerk.
- 2 That, on tabling, the report is authorised to be published.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report

The Hon. Jennifer Gardiner, as Chair, tabled report No. 22, 4 entitled "Badgerys Creek Land Dealings and Planning Sessions: Second Report", dated February 2010, together with transcripts of evidence, minutes of proceedings, correspondence and answers to questions taken on notice.

Report ordered to be printed on motion by the Hon. Jennifer Gardiner and set down as an order of the day for a future day.

The Hon. JENNIFER GARDINER [11.03 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Jennifer Gardiner.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Improving Road Safety—School Zones: Roads and Traffic Authority of New South Wales", dated February 2010, received and authorised to be printed this day.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 119 outside the Order of Precedence withdrawn by Dr John Kaye.

BUSINESS OF THE HOUSE

Postponement of Business

Private Members' Business items Nos 3 and 5 outside the Order of Precedence postponed on motion by Ms Lee Rhiannon.

**ATTENDANCE OF THE HONOURABLE MOHAMMED ABDUL HAMID, MP, HONOURABLE
SPEAKER OF THE BANGLADESH PARLIAMENT**

Motion, by leave, by the Hon. John Hatzistergos agreed to:

That in the event of the attendance in this House today of the Hon. Mohammed Abdul Hamid MP, Honourable Speaker of the Bangladesh Parliament, he be invited to take a chair on the dais.

BUDGET 2009-2010

Production of Documents: Tabling of Report of Independent Legal Arbitrator

The Clerk tabled, according to resolution of the House this day, the report of the Independent Legal Arbitrator, dated 11 December 2009, on the disputed claim of privilege on papers relating to the 2009-10 Budget.

**RETIREMENT VILLAGES ACT 1999: DISALLOWANCE OF RETIREMENT VILLAGES
REGULATION 2009**

The PRESIDENT: Pursuant to standing orders the question is: That the motion proceed as business of the House.

Question resolved in the affirmative.

The Hon. CATHERINE CUSACK [11.17 a.m.]: I move:

That the matter proceed forthwith.

Question put.

The House divided.

Ayes, 20

Mr Ajaka	Ms Hale	Mrs Pavey
Mr Brown	Dr Kaye	Mr Pearce
Mr Clarke	Mr Khan	Ms Rhiannon
Mr Cohen	Mr Lynn	Mr Smith
Ms Cusack	Reverend Dr Moyes	<i>Tellers,</i>
Ms Ficarra	Reverend Nile	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 15

Mr Catanzariti	Mr Obeid	Mr Veitch
Ms Griffin	Mr Primrose	
Mr Hatzistergos	Mr Robertson	
Mr Kelly	Ms Robertson	<i>Tellers,</i>
Mr Macdonald	Mr Roozendaal	Mr Donnelly
Mr Moselmane	Ms Sharpe	Ms Voltz

Pairs

Mr Gallacher	Mr Della Bosca
Mr Gay	Mr West
Mr Mason-Cox	Ms Westwood

Question resolved in the affirmative.

Motion agreed to.

The Hon. CATHERINE CUSACK [11.25 a.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows clause 5(1)(a) of the Retirement Villages Regulation 2009, published on the NSW Legislation Website on 18 January 2010 and tabled on 23 February 2010.

The purpose of this motion is to disallow clause 5 (1) (a) of the Retirement Villages Regulation 2009 which deals with the split of costs for capital maintenance between residents and operators of retirement villages. If allowed to stand, the regulation will come into force on 1 March 2010. As members are aware, the process of updating the retirement villages legislation has been underway for six years, since 2004, and has involved significant consultation between stakeholders and government. There has been so much consultation by so many fair trading Ministers that two years ago I dubbed it "Gilligan's Island legislation" because each episode began the same way, with high hopes that the goal of reform would finally be achieved, only to end the same way back on the island, with no end to the issue in sight.

The Hon. Tony Catanzariti: But they were all happy.

The Hon. CATHERINE CUSACK: They were more happy on Gilligan's Island, correct, than the residents are. When finally in 2008 the then Minister for Fair Trading, the Hon. Linda Burney, introduced the bill, it was with these words:

Unquestionably the most significant changes in the bill involve the treatment of capital maintenance and capital replacement. All sides agree that the present approach, which makes residents responsible for maintenance and operators liable for replacing capital items, is not working.

The Minister was correct in that the capital maintenance issue has been the key focus of bitter dispute between residents and operators of villages. Unfortunately, the Government has proposed different solutions to the problem on three separate occasions, effectively covering the field of broad possibilities in a nonsensical and divisive manner. These three solutions could be simplified for discussion purposes as: a 50:50 split of costs for capital maintenance—that was at the draft bill stage in June 2008; second, operators liable for most of the capital maintenance—at draft regulation stage in October 2009; and, third, residents liable for most capital maintenance—and that was at final regulation stage on 18 December 2009. With the latest position, maintenance costs have clearly shifted onto residents unfairly. The Retirement Village Association, representing village owners and operators, inflamed the situation by writing to its members on 18 December with these fateful words:

The amendments are estimated to provide savings to the industry in NSW of approximately \$70 million per annum.

This is not the first time that floating by industry has heaped fuel onto the fire of discontent in this matter. Residents are understandably alarmed that the Government has changed the final version of the regulation to take this estimated \$70 million out of their pockets annually. There is great pain and upset over the Government's backflip here, and the Retirement Village Residents Association [RVRA] will run a strong and justifiable campaign centred on its sense of betrayal by the fair trading Minister.

The situation is exacerbated by the fact that the Minister met with Retirement Village Residents Association representatives in the same week that the final regulation was published and failed to mention this vital alteration to the draft regulation. As a result, her credibility in the eyes of the community is in tatters. This motion seeks to disallow clause 5 (1) (a) of the Retirement Villages Regulation 2009 under the provisions of the Interpretation Act 1987. While this will remove part of the definition of capital maintenance in the regulation, it does not leave a hole in the legislation as section 97 of Retirement Villages Amendment Act 2008 establishes the principles and the terms of the split of funding capital maintenance as being the residents' responsibility and capital replacement as being the operators' responsibility.

In the event that this motion succeeds and the regulation is disallowed, we would expect the Minister to return to stakeholders and prepare a new regulation which sets a fairer split of cost liabilities. It is important to clarify that disallowance today does not create a situation where there is an urgent need for amending regulation. Capital maintenance is arguably the most central and important issue of the whole lengthy updating of the retirement villages legislation and clearly it has been mishandled not once but three times by the Minister and the Office of Fair Trading. They clearly do not know what to do here, but seem unwilling to help stakeholders reach a negotiated position before drafting the definition of capital maintenance. Residents are devastated at this last change and fear having to pay the \$70 million I have referred to. We are receiving numerous emails and letters protesting at the situation. I shall read into *Hansard* a couple of comments received from residents. Betty Harvie stated:

Residents are now liable for Capital Maintenance when they have no ownership of the Property. Section 33 (1) (a) and (b) of the Regulations is an open invitation to Operators to manipulate their expenditure to be able to relieve residents of more money. If residents can work this one out you can be sure Solicitors for the Operators have already done this.

The draft Regulations appeared to address these issues, however the final Regulations have taken this away from Residents.

Mr D. Brown wrote:

There appears little doubt that this **\$70 million saved by big business EACH YEAR** will now have to be paid by aged retired Australians residing, or soon to reside, in Retirement Villages in NSW, many of these people are now just able to survive on the aged pension.

NSW seniors, including aged pensioners, living in retirement villages have been "sold out" by Government to big business – SHAME! SHAME! SHAME!

I quote in part from a letter I received from Malcolm McKenzie, President of the Retirement Village Residents Association, John Cooper, Vice President from Queens Lake, near Port Macquarie, and Jan Pritchard, Secretary. The letter states:

The RVRA are very disappointed with the final Regulation. During our discussion we believed that this Regulation may result in a fairer situation in Retirement Villages, but this is not the case. As in the past, the Act will be weighted towards the operators as they have shown in their own letter to their members. They obviously wield a great deal of influence over Governments.

We shall continue in our endeavours to have changes made to this legislation by any means at our disposal. The new year will see the beginning of a strong and vocal campaign against Clause 33 (1) (a) of the Regulation and the definitions given for Capital Maintenance. This campaign will continue until the Retirement Village Residents in NSW are treated with fairness and justice.

As I have referred to this many times, I would like to quote from the source document where the \$70 million figure came from. It was a circular issued by the Retirement Villages Association on 18 December 2009. In part the circular stated:

The RVA would like to thank all of its members who contributed to the consultation process and gave assistance throughout the consultation period. **The RVA would also like to thank the OFT and the Minister's Office for accommodating the RVA** along with the RVRA and the ACS throughout the consultation period ...

The most significant amendments are as follows:

Capital Maintenance

Clause 4 in the Draft Regulation has been eliminated in full and replaced by Clause 5. In line with the RVA recommendation, Clause 5 now states that Capital Maintenance is defined as:

- Work done to prevent or repair defects in, damage to, or deterioration of, an item of capital;
- Replacement of a non fixed item of capital;
- Replacement of a component of an item of capital that is necessary for the proper operation of an item of capital.

The clause further states that capital maintenance *is not*:

- Work done to substantially improve an item of capital beyond its original condition;
- or
- Work done to maintain or repair an item of capital in circumstances where it would have been more cost effective to replace the item of capital.

The amendments are estimated to provide savings to the industry in NSW of approximately \$70 million ...

Members would understand the reaction of residents, who are appalled at being sold out by the Government in this way. I shall also place on the record a transcript of a recording that I received of part of the consultations conducted by the Office of Fair Trading with, I understand, the 200 to 300 residents who were in attendance at a meeting where all these changes were explained. I was sent a recording, and we have made a transcript of the recording to the best of our ability. Mr Neil Smith from the Office of Fair Trading stated:

I refer to your fact sheet FTR71 January—you say under "repairing and maintaining capital items ", from time to time any item in a unit, such as a hot water service or stove, may need to be repaired or replaced. Residents are not responsible for arranging or paying for repairs, or replacement of those items. Then you go on to say, it is the responsibility of the operator to allocate a sufficient amount for all types of maintenance, when preparing a proposed annual budget. I ask you, is that in contrary, are those two things in contrary to one another, because, hey, the residents pay the recurrent charges, so therefore they are paying for them.

Female Voice: Um, no, there's not a contradiction, the Act makes the operator responsible for keeping the village in a good state of repair, so that makes the operator have to plan for any maintenance work that needs to be done, and needs budget for it, and they need include it that the budget. Separately to who's paying for it, is the maintenance, and the operating funds.

There was an inaudible section and the next part we could decipher was as follows:

The matter of who pays for it is separate to underlying responsibility of the operator to make sure.

2nd Female Voice: ...Paying when we're paying charges for maintenance, that doesn't mean the individual residents, to worry about that maintenance and ensure it's taken care of ...that's an obligation on ...

And we believe it is the operator. I simply quote that to give an idea of the poor quality of advice. I thought that was a pathetic attempt given by the Office of Fair Trading. The residents were in effect saying, "In your fact sheet you are saying these obligations are being placed on the operator but he is to pay for them out of the budget, and the budget, of course, is coming out of our pocket so doesn't that mean that we are the ones who are paying for it?" The inability of the Office of Fair Trading to respond to what I thought was an excellent question was all the more disturbing.

After all the residents have been put through, for so long, on such complex issues, it is a great disappointment to be back in the Parliament yet again raising these same concerns and telling the Government that it has it wrong again and that it must go back and get it right. The behaviour of the Government and its lack of good faith with residents, demonstrated by such a remarkable last-minute change in the regulation, at one minute to midnight, is a great disservice to everyone, including industry—even though it might not realise it. Contrary to the Government's backsliding and provocation, we all must work to remove barriers to a harmonious relationship between residents and operators so as to promote a successful industry and lifestyle. This regulation, of course, achieves the opposite.

The Opposition understands that village owners and operators will not want to see their last-minute victory over capital maintenance disallowed. However, they are well aware that residents have had their expectations betrayed by the Minister. All stakeholders have been upset along the way and believe that the Government has not been listening. The Government must take the blame for mishandling the consultation and drafting. It has been an extraordinary failure by the Minister to properly inform the residents of her changes.

The Minister has suggested to me that there is a big misunderstanding on the part of the residents. She claims that the regulation will actually assist residents. The implication has been made clear to me that the old folk are confused. I find such a suggestion very offensive. The measured approach taken to the issues, the quality of the research undertaken by the residents, their patience and engagement in the processes lends huge credibility to their case. These people are seriously doing their homework. Indeed, the quality of material and answers produced by the Office of Fair Trading compares most unfavourably with the residents' material.

I am sorry, Minister, but it is you and your staff who are looking flat-footed, if not shifty, in this dispute. I remind the Minister that it was her responsibility to resolve this to the satisfaction of both parties and she must not blame the parties for her own mismanagement. I urge all members to support this motion. It is a vital article of faith with the Parliament that the rights of these worthy citizens be respected and not retrospectively destroyed by their own Government. It is our job as legislators to review this sorry affair, to prevent this injustice, and to require the Government to put things right for the residents.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.40 a.m.]: The Government cannot support this rash and reckless motion. It is clear the Opposition does not understand how this legislation is intended to work. The Opposition proposes that the definition of capital maintenance be removed from the regulation and replaced with nothing. Its proposal appears simply to leave a void in the regulation, leaving residents and operators with no guidance as to what is capital maintenance. In stark contrast to the views of the majority of residents and operators in this State, the Hon. Catherine Cusack apparently prefers nothing to be defined and nothing to be clear. This will do exactly what we do not want to happen: it will perpetuate disagreement, confusion and legal disputes.

The Opposition is only capable of policy criticism; it does not provide policy alternatives. First the Opposition objects to the 50:50 split of capital maintenance costs in the amendment bill but has no alternative to it. Then the Opposition objects to the proposals in the draft regulation but the member for Albury cannot offer an alternative. Now the Opposition objects to the final regulation but again has no alternative; instead it wants to leave a gap which will achieve nothing but confusion, disagreements and disputes. The member for Albury believes that retirement villages must "function harmoniously", yet this irresponsible Opposition motion will create quite the opposite effect.

As many members would be aware, the Retirement Villages Act provides for the costs of capital works in a village to be shared between the operator and residents based on whether the work involves the replacement or maintenance of capital items. During the development of the Retirement Villages Regulation consultation with residents' groups indicated the need for a definition of capital maintenance to add some greatly needed clarity to the legislation.

The definition of capital maintenance in the regulation was the result of further, extensive consultation with village residents, operators and the community during the public consultation period last year. More than

750 submissions were received in response to the draft regulation. The Minister for Fair Trading also met on a number of occasions with the Retirement Villages Residents Association, the Retirement Village Association, and the Aged and Community Services Association. These key stakeholders were in agreement that it was necessary to include in the regulation a clear definition of what is meant by capital maintenance.

To further explore this and other issues the Minister convened a roundtable meeting of the three stakeholder groups. The views expressed in consultation meetings and submissions strongly supported the need for more certainty in determining what work is considered to be capital maintenance. I am aware of a claim by the Retirement Village Association that this regulation will save industry \$70 million. This has clearly caused concern amongst residents. However, I am advised there is no sound basis for this claim and the Government has not been provided with any evidence about how this supposed saving was calculated. In any case, the regulation does not shift any costs from operators to residents or impose any additional costs. It simply provides more certainty.

The regulation provides a flexible, principles-based definition which sets out what is broadly covered by the term "capital maintenance", and provides flexibility to deal with a range of potential situations. This recognises the different types of villages and the very different individual circumstances in place around New South Wales and is a wholly appropriate and effective approach to this matter. The definition of capital maintenance and all the new measures will be subject to close monitoring by Fair Trading. Furthermore, should the definition not work in practice as the Government intends, the regulation can be reviewed and amended to operate as intended. If this motion is successful it will reduce certainty for residents and operators, and increase disputes in villages across New South Wales. In all commonsense this motion cannot be supported. I oppose the motion and strongly urge all members to do likewise.

Reverend the Hon. Dr GORDON MOYES [11.44 a.m.]: On behalf of Family First I speak to the motion to disallow a clause of the Retirement Villages Regulation 2009. The purpose of the motion is to disallow clause 5 (1) (a) of the Retirement Villages Regulation 2009, which deals with the split of costs for capital maintenance between residents and operators of retirement villages. I note that the regulation has not yet been laid on the table in the Parliament but was published on the Office of Fair Trading website on 18 December 2009. Implementation of the regulation is currently set by the Government for 1 March 2010. When the former Minister for Fair Trading, the Hon. Linda Burney, introduced the retirement villages legislation she stated:

Unquestionably the most significant changes in the bill involve the treatment of capital maintenance and capital replacement ... All sides agree that the present approach, which makes residents responsible for maintenance and operators liable for replacing capital items, is not working.

Certainly it is not working now, and it is the cause of a great deal of unrest and unhappiness among residents. Governments owe a duty of care to those who have contributed to the development of our society. This duty of care does not stop with the provision of the physical structure of housing. It must extend to protecting the consumer rights of the elderly, and the impact on their health and wellbeing that can result from anxiety and the feeling of powerlessness when faced with complex, and sometimes unconscionable, terms and conditions which would be unacceptable to the community at large. The core principle in any policy concerning retirement villages should be to keep simple any legislation or contracts employed, and within the capacity of older people to understand and deal with their requirements.

In a former life—and now for over 38 years—I had been responsible for the retirement villages being constructed and leased throughout Victoria and New South Wales, which involved the investment of hundreds of millions of dollars by a not-for-profit organisation in the provision of retirement villages for the aged. I can say from not only having been responsible for working in matters of design and development but also from having worked with many hundreds, now running into thousands, of residents that this is a very complex issue. It seems to me, with the limited discussions I have had with the various Ministers and also with public servants in their departments, that they simply do not understand some of the basic principles involved.

As part of my early life I was appointed an expert mediator to judge conflicts between owners and residents of a number of independent retirement villages. I was quite amazed, for example, in my first experience as a moderator in conflict to discover that—in spite of what was said in a rather disparaging way by a previous speaker on behalf of the Government—among the residents there were people with extreme abilities and competence. Indeed, in one meeting I had several High Court judges, a retired Supreme Court judge, and a

number of senior lawyers and accountants, who had nothing else to do but work through the legislation word by word. Without question they knew far more than anybody from the Office of Fair Trading, including the bureaucrats and the Minister concerned.

A second principle that I believe should be understood is that an endeavour should always be made to strike a balance between the expectations of the owner-operators and the aspirations of residents, which while divergent are not irreconcilable, to redress the existing inequality not just in financial terms but also in the power relationship between those two major stakeholders in the retirement villages sector. But the reality is that maintenance costs have in recent days clearly shifted onto residents unfairly. The Retirement Village Association, representing village owners and operators, many of whom are simply building companies—who are interested in making significant profits in the building of retirement villages, rather than in the operating of them and providing care for the residents—said in a rather disgusting memorandum and press release that the Hon. Penny Sharpe just made reference to: "The amendments are estimated to provide savings to the industry in New South Wales of approximately \$70 million per annum".

The Hon. Penny Sharpe indicated she has no evidence as to whether this figure is accurate, and the department has no idea whether or not it is true, which is bypassing the entire point. The owners claim they will be making an extra \$70 million. Obviously the residents consider that \$70 million can only come from one place: through their weekly, fortnightly or monthly costs, or upon their leaving their units. The Retirement Village Residents Association is deeply concerned that despite several attempts the legislative provisions governing the operation of the industry continue to be weighted heavily in favour of owners-operators of retirement villages to the financial detriment and, consequently, the detriment to the general health and wellbeing of residents.

The association is also deeply concerned about the unnecessary complexity and onerous financial and other terms and conditions that operators apply to contracts that a retiree signs in return for what is really temporary residence rights to a dwelling. I ask honourable members to consider this: most residents are either whole-of-life lessees or they rent their dwelling units. As such they do not share in the capital appreciation of the value of their dwelling, which obviously rises year by year. All capital appreciation value belongs only in one centre: the owners of the property. Consequently the owners, not the lessee or the people renting, should pay for capital costs for the rehabilitation or replacement of their dwellings.

Further, there is a lack of opportunity for residents to provide input into, and participate in, the decision-making that affects their lives, and in the management and day-to-day operation of their villages. I am quite aware of the regular meetings that residents are entitled to have and of annual general meetings and such where the issues discussed are usually those concerning the recurrent fee on a weekly, fortnightly or monthly basis about costs for gardening et cetera, and very rarely is mention ever made of ongoing heavy maintenance costs.

According to the Retirement Village Residents Association, capital maintenance is arguably the most central and important issue of the lengthy updating of retirement village legislation. I believe this has been mishandled, even though I have personally been to the Minister and met with representatives of her Office of Fair Trading. Residents believe that all costs involved in preserving a village's assets, which includes all the dwellings, roads, drainage, kerbing and guttering, roofing, brickwork et cetera, should be met entirely by the person or the entity that owns the village assets. If residents have strata title ownership of their dwellings and village, and therefore participate in profits from capital appreciation, they should meet part or a share of such costs. Similarly, if the village owner is the operator who leases or licenses the dwellings within to residents then the operator who leases or licenses the dwellings within to residents must legally be required to meet costs. Interestingly, this exact viewpoint is shared by the findings of the Review of the NSW Retirement Villages Act 1999 by the Office of Fair Trading in 2005, which stated:

Maintenance, replacement or improvement of capital items within a village, other than within premises owned by a resident—
things such as refrigerators, carpets, stoves, painting et cetera—

should be the responsibility of operators. This is in line with the laws applying to landlords of other premises.

For example, if I were to rent a unit at Newtown and I found cracks in the walls, doors out of plumb and windows that did not operate it would be the responsibility of the owner of the property from whom I rented it; it is not my responsibility as the person who pays weekly rent. The Office of Fair Trading admits that in its own statement, which I have just read on to the *Hansard*. The Retirement Villages Act 1999 was introduced by the

Government to modify the excesses of some operators—usually building companies that move into the field to make a profit on the building of the centres. The Government makes no attempt to control the prices charged by the operators as it is argued that market forces should be the determinant of prices. Many residents entering villages have only a vague understanding of the contracts that they have executed or signed. The amendments to Retirement Villages Act in 2008, and the supporting regulations, have failed to correct the imbalances that retirement village residents have experienced. I notice that the Hon. Penny Sharpe—[*Time expired.*]

Ms SYLVIA HALE [11.54 a.m.]: The Greens support the motion to disallow clause 5 (1) (a) of the Retirement Villages Regulation 2009, which deals with the split of costs for capital maintenance between residents and operators of retirement villages. The Retirement Village Residents Association supports the disallowance. They wish to return to the negotiating table, and they have a clear idea of how they wish to proceed. This issue has been a consistent source of dissatisfaction. It has been raised at meetings with the Retirement Village Residents Association and the office of the Minister in 2008, and again more recently.

A draft regulation was produced but it has been changed. What we now have is a regulation that is general rather than prescriptive and leaves the door open to assigning certain costs to residents. This clause will in no way lessen the disputes before the Consumer Trader and Tenancy Tribunal. The clause that the Hon. Catherine Cusack is seeking to disallow provides that the residents are to be responsible for the following items of capital maintenance: work done to prevent or repair defects in, damage to or deterioration of an item of capital; replacement of a non-fixed item of capital; and replacement of a component of an item of capital that is necessary for the operation of an item of capital.

When the bill was debated in 2008 the Greens believed the Government had shifted away from trying to pass costs on for things such as external wall repainting and road resurfacing, had moved away from trying to shift those costs on to residents and was moving towards an acceptance that the owners of the retirement village should carry the capital costs for the village that they own. After all, the residents are not the owners of the facility—they are usually renters—and the residents have no share in the profits of the operation, yet they are being asked to pay for significant works. If the residents are in a strata scheme that is a different matter. In that case they are a part owner and share responsibility for common areas, but in most retirement villages the residents are not a strata owner and they pay rent.

Clause 5 (1) (a) appears to have been designed in such a way as to leave it open to an interpretation that will permit owners to seek costs from residents for things such as painting walls. The retirement village operators, however, have clearly been on the Minister's case and have, yet again, got their way. As Miss Cusack has pointed out, this will cost residents some \$70 million annually if we are to believe the estimates of the Retirement Village Residents Association. I know that residents who have met with the Minister many times are feeling that they have been betrayed by this latest change. The Retirement Village Residents Association has informed me that in a submission it did suggest a prescriptive method of apportioning responsibility for capital maintenance by specifying who was responsible for what types of works. They informed me that in the previous version of the regulation there was, indeed, mention of the owner being responsible for the painting of external walls. This is now off the table and has gone from the most recent version of this clause.

The Retirement Village Residents Association has also informed me that it met with the Minister late last year but not one word was said about the wording of this clause and it feels cheated. I am further informed that at one of the meetings with the Minister a representative of the industry intimated that if the Minister did not comply with its demands then it might consider disinvesting from New South Wales. I believe that to be, at most, an empty threat. I was also advised, and it is very clear, that the residents do not like going to the Consumer Trader and Tenancy Tribunal only to face barristers representing the owners: they find the process to be very dispiriting and daunting. I reiterate what I said on behalf of the Greens in December 2008 when I spoke on the Retirement Villages Amendment Bill and drew attention to the problems created by not having the regulations before us. I said:

The Government proposed to allow elderly residents of retirement villages to be ripped off. The bill gave carte blanche for them to be charged up to 50 per cent of the costs of capital replacement, costs that should be 100 per cent the responsibility of the owner. The Government told residents, "Don't you worry about having to pay for big-ticket items; they will all be in the regulations. It's a pity but we haven't written these yet, so you can't see them and we can't tell you precisely what is in them."

We now know what is in the regulations and the concerns of the residents as a result. The Greens are happy to support Ms Catherine Cusack's motion. The Government argues that if this part of the regulations is disallowed

we will be in a complete vacuum. I will make a number of points in relation to that argument. The changes to the Act have not yet been proclaimed. In fact, we are still operating under the old Act. Likewise, the new regulation has not yet commenced.

Pursuant to sessional orders business interrupted at 12.00 noon for questions.

QUESTIONS WITHOUT NOTICE

TRANSPORT PLAN FUNDING

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Treasurer. How can the Government's transport plan be said to be fully funded when the only announcement has been \$500 million in new revenue, that is, the car tax, to pay for some \$50 billion in infrastructure? Given that the Premier did not answer this question yesterday, will the Treasurer now explain to the House how the Government will make up to \$49.5 billion to pay for the transport plan? Will it mean increased debt, more new taxes or a combination of both?

The Hon. ERIC ROOZENDAAL: I enjoy the opportunity to talk about the Government's 10-year \$50.2 billion Metropolitan Transport Plan, which is fully funded. How is it fully funded? That is a good question. As we have outlined, it is funded by the reallocation of the balance of the CBD metro funding to other projects, changes to the weight charge component for motor vehicles, which will be less than a maximum of 60¢ a week, and additional funding through the budget process.

The Hon. Michael Gallacher: Where will you get the money from through the budget process? We are talking about \$40 billion, by the sound of it, or \$45 billion.

The Hon. ERIC ROOZENDAAL: Every time they open their trap on economics, they put their foot in their mouth. They firmly have a foot stuck in their mouth over their stimulus package objections, which have been lambasted across the nation and the world as wrong. Every time they churn their little brains about economics, they remove one foot from their mouth and replace it with the other. The Government has announced a fully funded \$50 billion Metropolitan Transport Plan and we will deliver it. The Opposition is still talking about building the South West Rail Link. The Government is delivering it right now today. The workers and bulldozers are out there and construction is happening right now.

There has been a recent acknowledgement on the part of the Opposition in relation to supporting the RailCorp network in Sydney. This morning when I was reading the *Sydney Morning Herald*, one of the many papers I read in the morning, I noticed in *the (Sydney) magazine* an interesting bold quote from Barry O'Farrell acknowledging that the best way to support public transport in Sydney is to support the CityRail network. That is exactly what our fully funded ten-year \$50 billion Metropolitan Transport Plan will do. This is our commitment to the people of Sydney. We are already building the South West Rail Link and we are already delivering new carriages. We are getting on with the job.

[*Business interrupted.*]

DISTINGUISHED VISITORS

The PRESIDENT: I invite attention to the presence in my gallery of the Hon. Mohammed Abdul Hamid, MP, Honourable Speaker of the Bangladesh Parliament, together with an official parliamentary delegation. According to the resolution of the House, I invite the Honourable Speaker to take a chair on the dais and I welcome the honourable Speaker to the House.

The Hon. Mohammed Abdul Hamid, MP, Honourable Speaker of the Bangladesh Parliament, took a chair on the dais.

QUESTIONS WITHOUT NOTICE

[*Business resumed.*]

RED TAPE REDUCTION TARGET

The Hon. KAYEE GRIFFIN: My question without notice is addressed to the Minister for Regulatory Reform. Will the Minister update the House on progress towards the New South Wales Government's \$500 million red tape reduction target?

The Hon. JOHN HATZISTERGOS: One of the key priorities of the Government is to support business and jobs by cutting red tape to reduce the burden of business regulation across the State. The Government convened the Jobs Summit in April 2009 to stimulate frank discussions on what needed to happen to free up businesses to prosper, expand and create employment. In response to the Jobs Summit, the Government made a commitment to cut costs for business and the community in New South Wales by \$500 million by June 2011. Our Government is overhauling the way that businesses deal with public agencies by eliminating unnecessary regulations, getting rid of duplicative licensing arrangements and replacing the confusion of multiple overlapping systems with clear lines of communication and responsibility. I am proud to announce that through the efforts of every agency in the Government we are now more than two-thirds of the way towards achieving this significant reduction in red tape.

Between 2 April 2009, when the target was announced, and 31 December 2009, the Government has introduced reforms that will cut \$338 million in red tape across New South Wales by June 2011. These savings are spread across the New South Wales economy streamlining requirements for landowners, food businesses, non-government organisations, entertainers, schools, and construction. A few examples give a flavour of the many practical reforms taking place that are freeing up the New South Wales economy. We are introducing exempt and complying codes for commercial, industrial and retail uses, which will save businesses substantially each time they want to renovate their premises or change uses. We have committed to move plumbing regulation from being governed by over 100 regional bodies to a single regulator for the whole State and the adoption of the Plumbing Code of Australia across New South Wales. We are simplifying the oversight of the gas installation industry by moving the regulatory responsibility for all gas fitting, installations and appliances to a single agency rather than the previous situation where four government agencies all had overlapping roles.

In just the last six months significant savings have been identified. We are setting up mutual recognition of many occupational licences, which stops the need for costly and wasteful licence duplication across State borders. The red tape reductions I am talking about do not just make life easier for those businesses looking to reduce their compliance costs. Regulatory reform is also about delivering more streamlined services to consumers and the public. As part of that, we are moving many arduous paper application forms and physical documents online—for example, the process for renewing registration as a Justice of the Peace. This not only slashes costs for government and businesses but also makes access to records more convenient for members of the public. Following an internal red tape review, we are applying the same close eye to how government operates, taking advantage of technology and rationalising reporting requirements to deliver a more efficient public sector. This means that agencies can better focus on their core objective in delivering services to the community. The Government has set an ambitious \$500 million red tape reduction target to ease the conditions of doing business. I am pleased that through concerted work across all government agencies that target is well on the way to being achieved.

CBD METRO COMPENSATION COSTS

The Hon. DUNCAN GAY: My question without notice is directed to the Treasurer. In light of the compensation payments likely to be paid to a large number of construction companies, contractors, small businesses and individuals as a result of the decision to scrap the Sydney Metro, will the Treasurer specify what probity checks will be put in place by the Government to assess, quantify and recommend such payments? Will the Government appoint an independent auditor to do this? If so, when? If not, why not? Will the Auditor-General be asked to undertake an audit of the expenditure by the Sydney Metro Authority and all related government agencies to verify the total losses to New South Wales taxpayers as a result of the Government's change of policy?

The Hon. ERIC ROOZENDAAL: The Hon. Duncan Gay should know that I do not tell the Auditor-General to do or not do something; it is up to the Auditor-General.

The Hon. Duncan Gay: The question was "will the Auditor-General be asked".

The Hon. ERIC ROOZENDAAL: Steady there, Duncan. You had your chance; just sit there for a second, and get your little sidekick to do the same. In relation to reimbursement for reasonable cost, the Government has made it very clear that we will move swiftly to deal with all the issues relating to reimbursements. That will be an appropriate process involving the transport agencies and, obviously, Treasury, and it is our intention to involve an external independent organisation as well to ensure that we can carry out this process as quickly as possible and in as reasonable a time as possible.

HOME INSULATION PROGRAM

Reverend the Hon. FRED NILE: I ask the Minister for Industrial Relations a question without notice. Is it a fact that the Federal Government's \$2.5 billion batt insulation program has caused a number of deaths in New South Wales? Is it a fact that there have been more than 67 house fires in New South Wales as a result of the program? What role did the Minister's department play, especially WorkCover, to ensure that occupational health and safety requirements to protect the lives and homes of New South Wales workers and families were fully enforced? Does the Minister accept any responsibility for these deaths and house fires in New South Wales?

The Hon. JOHN ROBERTSON: I do not want to be flippant about this because it is an important issue.

The Hon. Greg Pearce: That would be a change.

The Hon. JOHN ROBERTSON: I've just been following your lead. The Minister for Finance deals with WorkCover matters. I will refer the question to him and seek to get an answer for the member.

COUNCIL OF AUSTRALIAN GOVERNMENTS REFORMS

The Hon. PENNY SHARPE: My question is directed to the Treasurer. Can the Treasurer update the House on the latest economic data and Council of Australian Governments reforms?

The Hon. ERIC ROOZENDAAL: I will begin with my normal warning for the Opposition because I find that they steel themselves when the good news comes out because otherwise they get really upset about good news for the State economy. It is more good news for the New South Wales economy. About 40 minutes ago the Australian Bureau of Statistics released more figures showing that New South Wales leads the nation in growth in new private capital expenditure. That means investment in important sectors such as mining, manufacturing, construction and plant and equipment.

New South Wales private investment rose by 16.1 per cent in the December 2009 quarter. That was solid growth through the quarter and was stronger than all the other States. During the same period Queensland fell 0.3 per cent, Western Australia fell 2.6 per cent, Victoria rose by 13.4 per cent and the national average was just 5.5 per cent. Private investment in New South Wales was a staggering \$6.7 billion for the period. Today's results come off the back of New South Wales' strong private investment results in the first quarter of the financial year. Private investment in New South Wales grew by 2.2 per cent in the first three months of this financial year, while it fell by 5 per cent in Victoria.

Earlier this week the Council of Australian Governments released its first report into the implementation of the Seamless National Economy reforms. I welcome the findings of the Council of Australian Governments Reform Council. These findings show that the performance of New South Wales is equal to or better than that of most of the other States and Territories. The Seamless National Economy reforms are a highly significant stream of the broader Council of Australian Governments reform agenda. These reforms aim to enhance Australia's productivity through enhancing our "human capital", delivering key services more efficiently and improving workforce participation.

Greater productivity is the key to achieving our economic potential and providing the prosperous futures and improved living standards our working families deserve. The fact that New South Wales is tracking ahead of most of the other States and Territories is not only encouraging but it is yet another sign of our commitment to the people of New South Wales. The review covers the period up to 30 September 2009. Since then New South Wales has continued to pursue a reform agenda with a further cut to payroll tax in January of this year—it is now down to 5.65 per cent.

In November of last year the Council of Australian Governments Reform Council also released assessment reports on the National Education Agreement and the National Skills and Workforce Development Agreement. Again the council concluded that New South Wales is doing well against the national average, despite having a higher proportion of students who come from disadvantaged backgrounds or who primarily speak a language other than English. I am confident that New South Wales will continue to deliver the changes necessary to reduce costs for business, increase competition for consumers and diminish distortions in resource allocation across the economy.

UNIQUE STUDENT IDENTIFIERS

Ms LEE RHIANNON: I direct my question to the Attorney General. With regard to the education Minister Julia Gillard's proposal to introduce national unique student identifiers, have the privacy implications of the proposal been properly dealt with? Will the Attorney General ask the New South Wales Privacy Commissioner to brief him on the initiative and will the Attorney General request that the Federal Government properly consult on the proposal and conduct a thorough privacy impact assessment seeking feedback from key interest groups and the public before its introduction?

What protections will New South Wales recommend should be in place to ensure that this central rich data source, which may include medical, welfare and student travel details, does not promote function creep, does not create more pressure to collect more information about students, does not allow the sharing of information beyond the education department to other agencies and does not become a honey pot of information attractive to consumer marketers, organised criminals trying to access the database to create fake identities, paedophiles and violent non-custodial parents seeking details about the current home address of children or their estranged spouse? [*Time expired.*]

The Hon. JOHN HATZISTERGOS: The question raises a number of issues and, as the honourable member would be aware, usually privacy is on the national agenda. In relation to specific matters, I will certainly take them on notice and come back to her with an answer.

CALGA SAND MINE

The Hon. CATHERINE CUSACK: My question without notice is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Is the Minister giving favourable consideration to a part 3 application for an expansion of a sand mine at Calga, which will see the Minister exempt them from provisions in the native vegetation and threatened species Acts? Is the Minister aware that neighbouring properties, including a wildlife sanctuary, Olympic equestrian training facility and traditional farms have expressed concerns about the possible effect on the creek, underground aquifer, air quality and amenity of the area? Will the Minister make a commitment to visit the region and meet with the Calga residents association?

The Hon. TONY KELLY: Firstly, the honourable member's question was, am I giving favourable consideration—in other words, pre-determining what the consideration would be. Obviously I will not respond to that provocative part of the question. If the question had been am I giving unfavourable consideration I would not respond to that either.

The Hon. Duncan Gay: So you refuse to answer?

The Hon. TONY KELLY: Well done, Duncan. I am aware that there is some community concern about the impacts of the proposal. I have met with the group that the member mentioned, the Calga-Peats Ridge Community Group, to hear their concerns firsthand. The local member, Marie Andrews, arranged the meeting. Due to public interest the environmental assessment of the project was exhibited for an extended period up until 19 February. The department revised approximately 2,600 submissions from the community during the exhibition period. I have asked the department to closely examine the issues raised during the exhibition period when it assesses the merits of the project.

KYOTO ENERGY PARK

The Hon. EDDIE OBEID: My question is directed to the Minister for Planning. Can the Minister inform the House about the renewable energy sources at the Kyoto Energy Park?

The Hon. TONY KELLY: I thank the member for his question and continuing interest in matters across New South Wales. I can report to the House that earlier this month I accompanied the Premier when she announced this Government's approval of a \$190-million renewable energy farm. Located north west of Scone and based on the properties known as Middlebrook Station and Mountain Station, the Kyoto Energy Park will serve as a model for future power generation. It will provide energy using a range of green energy technologies—wind, solar and hydropower—and will be capable of powering more than 37,000 New South Wales homes.

The Hon. Rick Colless: There is not much solar and hydro; it is mostly wind.

The Hon. TONY KELLY: When I provide the statistics the member will realise how wrong he is. As the Premier said on the day, this is about harnessing wind and the abundant sunshine we experience in Australia. The range of renewable energy sources includes 34 wind turbines, up to 21 hectares of solar panels and a hydroelectric generator using recycled water. The amount of energy that will be created by the renewable resources at the plant is equivalent to that produced by some 65,000 cars a year. It will not only help New South Wales to meet its renewable energy target of hundreds of thousands of tonnes of carbon but also will attract regional investment and generate more than 200 jobs. This is yet another substantial injection into the New South Wales economy from the green energy industry.

I thank the local community for its involvement in the consultation process. The final design was developed after extensive consultation, which resulted in important changes, including the removal of eight planned wind turbines that would have impacted on the community, the environment and Scone airport. That is in addition to the five proposed turbines that had already been removed from the initial proposal.

[Interruption]

The Deputy Leader of the Opposition has been interjecting about Crookwell. I hope he intends to congratulate the Crookwell woman who was acknowledged at the rural women's function last night. The reduction in turbines eliminates concern about the potential impact on Scone airport. I repeat: There will be absolutely no disruption to the operation of Scone airport under the revised design. Further, 67 conditions on the approval will limit the impact on the local environment and surrounding landowners. They include measures designed to limit noise, screen planting to limit visual impacts and a management plan to minimise the risk to local bird and bat species. This plan satisfies the requirements in respect of noise management, visual impact, environmental conservation and the impact on pre-existing industry.

As part of the approval, the successful tenderer—Pamada Pty Limited—will contribute more than \$86,000 a year towards a community-enhancement fund. The fund will be operated by an independent steering committee and will be used to support local infrastructure and community initiatives. The Government has also imposed a number of other conditions on the development, including the requirement to ensure that adjacent property owners do not suffer unacceptable noise impacts, that screening vegetation is planted around homes that experience high visual impact and the implementation of a management plan to minimise the risk to local bird and bat species. The Government is committed to supporting reliable sources of renewable, decentralised energy. In the past six years it has been working with local councils and has approved 17 wind farms with the potential to supply 2,900 megawatts of energy into the State's electricity grid. We will continue our commitment to implement more of clean, green infrastructure projects.

[Business interrupted.]

DISTINGUISHED VISITORS

The PRESIDENT: I thank the Honourable Speaker and the parliamentary delegation from the Bangladesh Parliament for attending the Legislative Council today.

QUESTIONS WITHOUT NOTICE

[Business resumed.]

BATEMANS MARINE PARK

The Hon. ROY SMITH: I direct my question to the Minister for Industrial Relations, representing the Minister for Climate Change and the Environment. Is the Minister aware of claims by fishing businesses in Batemans Bay that during the summer holidays they experienced a major decline in sales and that they blamed the slump on the Batemans Marine Park, which was set up in 2007 and which has deterred recreational fishing because of the large number of restrictions? Will the Minister concede that marine park declarations have had an adverse impact on the Batemans Bay area? What will he do to ensure that this financial impact is not ongoing?

The Hon. JOHN ROBERTSON: I will refer the matter to the Minister and obtain an answer.

YOUTH NSW REVIEW

The Hon. DON HARWIN: My question without notice is directed to the Minister for Small Business, Minister for Volunteering, Minister for Youth, and Minister Assisting the Premier on Veterans' Affairs. Will the

Minister advise whether the review of Youth NSW funding and program guidelines has been completed? Will an organisation such as the Kool Kids Club at Maroubra be eligible for funding under the reviewed guidelines? Will such funding be interconnected with or tied to funding from Community Services NSW? Can the Minister advise whether Youth NSW will secure the long-term future of the Kool Kids Club by providing the funding that has been recently withdrawn by Community Services NSW, or will the Minister leave the Kool Kids Club to fight for survival each and every year?

The Hon. PETER PRIMROSE: The New South Wales Government is committed to helping the young people of this State to reach their full potential. The Government supports young people with a range of policies and programs. The Better Futures program is the strategy through which we are helping young people to achieve their goals. The strategy was established in 2001 and originally targeted young people aged 12 to 24 years using drugs or at risk of drug abuse. In 2003, the strategy was decentralised to be managed within the Department of Community Services' regions. At that time the target group was also amended to cover 9 to 18-year-olds.

Following the Government's structural reforms to the public sector in mid-2009, responsibility for the Better Futures strategy now rests with the Commission for Children and Young People located within Community Services NSW. The 2009-10 Better Futures budget is \$3.9 million. In 2009-10, Better Futures has provided funding to 52 projects, including: the Kool Kids Club mentioned by the member, which is run by South Sydney Youth Services; Shire Wide Youth Services, which provides facilities and activities for young people in Miranda and Menai; the Port Stephens Adolescent and Family Counsellor Project, operated in and around the Newcastle area; and Better Futures Merana, operated by the Merana Aboriginal Community Association for the Hawkesbury, to name but a few.

As the member said, the New South Wales Commission for Children and Young People has been reviewing the Better Futures strategy to ensure that it addresses the current issues and priorities for children and young people. The review will consider the current research and obtain the views of children and young people, service providers and key stakeholders. Recommendations contained in a number of reports will also be considered. The reports include "Keep Them Safe: A Shared approach to Child Wellbeing", the Joint Parliamentary Committee report "Children and Young People Aged 9-14 Years in NSW: The Missing Middle" and the Review of New South Wales Government Youth Action Plan "The Way Forward: Supporting Young People in NSW".

The review was originally intended to be completed by 30 June 2010. It has now been extended for a further 12 months to 30 June 2011. I have also decided to extend funding for all Better Futures projects supported during 2009-10. This will allow greater opportunity for interested parties to provide feedback on the effectiveness of the strategy to date. Similarly, it will allow proper consideration of the complexities involved in understanding how to improve the lives of children and young people. It is anticipated that the review will be completed by early 2011. Provision of this funding is conditional on projects providing acquittal for past grant funding and reporting on outcomes and achievements against their agreed performance indicators. We want to ensure that Better Futures reflects current thinking and experience in the area of service provision for young people and links to the extensive work undertaken by this Government in securing the safety, welfare and wellbeing of the children and young people of this State.

SMALL BUSINESS ASSISTANCE

The Hon. GREG DONNELLY: My question is directed to the Minister for Small Business. Will the Minister update the House on what the Government is doing to help small business?

The Hon. Michael Gallacher: The Hon. Peter Primrose is on a roll.

The Hon. Charlie Lynn: He should be Treasurer.

The Hon. PETER PRIMROSE: I thank members of the Opposition for their endorsement and I thank the honourable member for his question. Business clusters are like-minded groups of cooperative businesses and supporting organisations with common business objectives that work collaboratively for economic growth. The New South Wales Government's Business Clusters Program assists groups of established businesses to move from informal alliances to functioning commercial entities to develop new markets beyond their local economy. Clustering allows companies to share resources, identify business opportunities, partner on major or complex projects, benchmark best practice standards, and learn from each other. We recognise the enormous potential that clustering can provide.

That is why the Government operates the Strategic Business Clusters Program, which can provide tailored non-financial and financial support to help small and medium enterprises maximise their potential. Assistance can be provided to projects including feasibility and formation planning, industry skills enhancement, overcoming structural economic issues, market research, marketing and promotional activities, or support for a facilitator to organise and manage the cluster. Clusters bring together a range of competencies at an early stage. By combining the resources of a group of companies it is possible to turn business opportunities into realities. Enormous benefits are to be gained from small to medium enterprises collaborating together in clusters, including creating a critical mass, exploring creative solutions to common problems and jointly developing potentially new commercial opportunities. Industries as diverse as clothing, after-market exhaust manufacturers, fashion designers, exporters to China and open-source software are examples of clusters supported under this program.

In the past 12 months, the New South Wales Government has supported 26 networks and clusters across the State with financial and non-financial assistance, helping 2,299 businesses to work together. These have included after-market exhaust manufacturers, open-source software, engineering and even fashion. For example, the Australian Automotive Aftermarket Association, with 120 members based in Penrith, was supported with \$10,000 to educate its members on new manufacturing practices to accommodate motor vehicle exhaust noise laws. Another example is HunterNet Co-operative Ltd, which is a network of small and medium manufacturing, engineering and consulting companies located in the Hunter region of New South Wales. The company was offered funding for the project Developing Opportunities for small to medium enterprises in the Hunter/Central Coast defence-based industry.

I inform the House that the Government will invest \$500,000 this year for the creation and support of more small business clusters. I am calling for expressions of interest for the first round funding of the Strategic Business Clusters Program. New or existing groups of businesses can apply for three levels of financial support ranging from \$5,000 for business networks up to \$30,000 for established clusters in matched funding to help achieve a common business objective. Business cluster funding supports the facilitation and growth of critical geographical or industry sector collaborative efforts. Again I thank all honourable members, on both sides of the House, for their interest in small and medium enterprises.

REPCO RALLY

Mr IAN COHEN: My question is directed to the Minister for State and Regional Development. Will the Minister explain why the managing director of Integrated Marketing Communications, Mike Cahill, will not be undertaking an economic cost-benefit analysis of the Repco Rally? On what basis can the reviewer, Integrated Marketing Communications, recommend the continuation of the rally to the Minister if it has not undertaken any economic analysis? Will the Minister confirm whether he or his officers told Geoff Provest, the local member of Parliament, that New South Wales Labor would not support a review of the Repco Rally if it included a cost-benefit analysis?

The Hon. IAN MACDONALD: I do not know who would have said that to the member for Tweed. It certainly was not me. I understand a review is being conducted. I do not have the final details of it but I remind the member that the Repco Rally—despite the opposition of his good self and a few others; a very small minority on the North Coast—attracted 83,000 people. Surveys of local businesses that I have seen indicate that almost all who operated over that weekend experienced massive increases in income and turnover and that most are satisfied with the rally and want it to occur again. Further work will be done. I always do my job thoroughly. The member has to remember that we are contracted for this event for the next 10 years, and I think that is wonderful. However, the member might have forgotten that the event is not being held this year; it will be held every two years. But if there is a chance that it can be held more regularly, I will certainly look into it.

SMALL BUSINESS ADVISORY SERVICES

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Small Business. Does the Minister endorse comments by the previous Minister for Small Business, the Hon. Steve Whan, MP, that were quoted in the *Cooma-Monaro Express* on 22 September last year that he thought the Snowy Enterprise Centre in Cooma was a useful service and would like to see it continue? How can the Snowy Enterprise Centre be expected to continue on its own two feet when it has been twice overlooked for government funding in favour of a centralised service more than an hour away? Will the Government guarantee that small businesses in the southern part of Monaro, including Jindabyne, Delegate, Berridale, Bombala and

Nimmitabel, will not suffer as a result of the Government's downgrade of the service? Will the Minister visit Cooma with me to discuss with the board of the Snowy Enterprise Centre plans for its sustainable future? I invite the Minister to visit the area with me next Thursday.

The Hon. PETER PRIMROSE: I thank the honourable member for her question. As the honourable member would expect, no, I have not seen that particular comment in the newspaper.

The Hon. Melinda Pavey: He has not raised it with you?

The Hon. PETER PRIMROSE: The honourable member asked me whether I had seen a particular item in a regional newspaper. I am indicating to the honourable member that I will take her word that the comments were made and will respond accordingly. I have not seen that particular comment. How could I be expected to see every comment in every newspaper?

The Hon. Melinda Pavey: It is a very big issue in Monaro.

The Hon. PETER PRIMROSE: I presume the honourable member would like an answer and I am seeking to give it, rather than use the obvious ploy of saying only that I have not seen the comment. It is an important issue and I regard it as important and I propose to respond.

[Interruption]

The PRESIDENT: Order! The Minister is answering the question. Interjections are disorderly at all times.

The Hon. PETER PRIMROSE: Tumut and the surrounding area will receive business advisory services from the New South Wales Government. The Tumut office was funded by a one-off grant from the Commonwealth Government in 2008-2009 and was not part of the Riverina Business Enterprise Centre's contract to deliver the New South Wales Government's business advisory service. New South Wales business advisory services to the Tumut area will now be delivered through the Capital Region Business Enterprise Centre based in Queanbeyan in the Southern Tablelands region. Tumut now falls within the Southern Tablelands region since the establishment of boundaries for the joint Commonwealth-State Regional Development Australia committees, which have been in operation since 1 July 2009. To allay any potential concerns of the Tumut business community, Industry and Investment New South Wales has offered to facilitate a meeting between the Riverina and the Capital Region business enterprise centres to discuss servicing of the Tumut area.

NATURAL DISASTER RELIEF

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Commerce. How is the Government supporting local communities carrying out emergency and restoration works in the wake of declared natural disasters?

The Hon. JOHN ROBERTSON: I am pleased to inform the House that the Government has approved a number of natural disaster relief assistance payments and grants for local councils on the North Coast of New South Wales. As members of the House are no doubt aware, communities in northern New South Wales have suffered greatly over the past two years from floods and storms. These events caused widespread and severe damage to property, infrastructure and community facilities. The grants relate to declared natural disasters in the North Coast region that occurred in January 2008, as well as February and May last year. The local government areas affected include Coffs Harbour, Kyogle, Richmond River, the Tweed and Lismore. National Disaster Relief Program support for local councils is administered by the Department of Services, Technology and Administration under guidelines developed by both the Federal and State governments. The department works with local councils to assess the cost of emergency works and to develop a program of restoration works. Final payment is made when this work is completed and certified.

I would like to outline some of the assistance that the Government is providing to communities on the North Coast. The Government is providing \$340,270 to Coffs Harbour City Council to cover the full cost of cleaning up and restoring its community assets damaged during the February 2009 floods. This program of

works will repair damage inflicted on drains and sewerage infrastructure, retaining walls and recreational facilities. Access will be restored to North Beach and work will be undertaken to address significant rock erosion from the groyne wall in the harbour.

It will also cover repairs to recreational facilities in Coramba, Arrawarra and Emerald Beach. The Government grant was made up of \$122,554 for emergency work and \$217,716 for restoration works. Grants totalling \$270,000 have been provided to Kyogle Shire Council for restoration works undertaken in the wake of the January 2008 floods. A further grant of \$79,300 has been approved to cover costs arising from another flood in May last year. So far, Kyogle shire has completed a range of works in the wake of the 2008 floods, such as cleaning Anzac Park and fixing drains in Bonalbo and Kyogle.

The Hon. Catherine Cusack: Have they waited two years for the clean-up?

The Hon. JOHN ROBERTSON: The member should have been listening to the early part of my answer; they get paid the money when the work is completed and certified. The Government has approved a grant of \$708,000 to Richmond River County Council to meet the full cost of debris removal, as well as repairs to the council's flood mitigation infrastructure in the wake of storms and flooding in May last year. Three of the largest restoration projects are the Delvin drain levee, Oakland Road levee and South Lismore drain. The maintenance of the levees and flood drains is an important component of the flood security of Lismore. Up to \$605,000 will be provided to assist restoring Tweed Shire Council assets damaged during last May's floods. The grant will allow Tweed Shire Council to meet the cost of repairing damage to Duranbah and Pottsville beaches and carry out repairs to flood mitigation works at Chinderah and Banora Point.

Tweed shire has already received payment of more than \$140,000 for damage arising from floods a year earlier. The Government will provide almost \$210,000 to compensate Lismore City Council for the program of works it carried out in the wake of the October 2007 hail and wind storms. The funding covers the clean-up of roads and parks in and around Lismore's central business district and residential areas, including East Lismore and Lismore Heights. It also meets the full cost of emergency works for roads, parks and sports grounds in Dunoon, and significant damage to Dalley and Neilson streets and Caldwell Avenue. A further grant of \$227,000 will also compensate the Lismore City Council for completed emergency work for damage caused by the January 2008 floods.

BARANGAROO REDEVELOPMENT

Ms SYLVIA HALE: My question is directed to the Minister for Planning. The principles adopted in the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 are that:

- (a) Sydney Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good,
- (b) The public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour and its foreshores.

Has the Government completely abandoned any pretence of subscribing to these principles? If not, will the Minister explain how the construction of a privately owned and operated hotel at Barangaroo that intrudes more than 100 metres into the harbour is consistent with these principles? What guarantees are there that this development will not provide a precedent for further alienation of the harbour for private profit?

The Hon. TONY KELLY: The question gives me an opportunity to talk about Barangaroo. It suggests that I am going to approve a project for which no application has yet been lodged. What was announced yesterday was a public display that shows a concept about which a development application has not yet been lodged. It is merely a concept, and it must go through the normal planning processes.

The Hon. John Hatzistergos: They do not have planning processes in the Soviet Union.

The Hon. TONY KELLY: No, that is so. If one looks closely at the concept, one sees that it actually delivers more water area than is presently available. More than 50 per cent of the area, access to which has been denied to the public for a century, will be open to the public.

The Hon. Duncan Gay: Is this the plan you have not approved yet?

The Hon. TONY KELLY: This is the concept that is on display in relation to which no developer has lodged an application. The concept shows that more than 50 per cent of the land will be returned to the public.

In fact, the concept will make more of the harbour available than would be provided by the 150-metre pier that has been suggested by the member. I know that under the rules I am not supposed to debate the member's question, but her question contained an erroneous assertion—that I have already approved a proposal.

SOMERTON BRIDGE FUNDING

The Hon. TREVOR KHAN: My question without notice is directed to the Treasurer, and Special Minister of State. Is he aware that despite the making of a natural disaster declaration in November 2008, the Roads and Traffic Authority has refused to provide sufficient funding to repair Somerton Bridge at Somerton, near Tamworth? Will the Minister investigate whether the refusal to provide adequate funding to repair the bridge is a result of a funding shortfall within the department? Will he ensure that the Roads and Traffic Authority has sufficient funding to enable the repair of Somerton Bridge without further delay?

The Hon. ERIC ROOZENDAAL: I am not directly responsible for the line-by-line expenditure of the Roads budget. That, of course, is the responsibility of the Minister for Roads. However, I am more than happy to raise that issue directly with the Minister for Roads for his response. I will take this opportunity to reflect on the record Roads budget of \$4.4 billion being invested in roads in New South Wales, of which more than two-thirds is being spent on rural and regional roads, which are outside the Sydney metropolitan area. This is part of our commitment to building and maintaining critical road infrastructure right across New South Wales to support jobs and investment in local communities.

We should contrast that position with that of the Opposition. The Opposition's strategy is to cut the throat of the New South Wales economy. In fact, I have a photograph that depicts what they actually want to do. I advise the members who may be interested that this photograph appeared on VEXNEWS and it shows the Hon. Marie Ficarra, I believe it is, displaying her contempt for the Liberal Party rules. This was at a Liberal Party meeting—

The Hon. Michael Gallacher: Madam President, I always thought it was unparliamentary for members to use props.

The PRESIDENT: Order! Before members rise and start to speak on a point of order, they should first indicate that they wish to take a point of order.

The Hon. Michael Gallacher: Point of order: I take a point of order on behalf of all of those concerned about the use of props.

The Hon. Don Harwin: An improper prop.

The Hon. Michael Gallacher: An improper prop. Presidents have ruled about the use of photographs and other such material in the House.

The PRESIDENT: Order! Previous Presidents have ruled that the use of props by members is inappropriate. Given that the Leader of the Opposition has raised the matter, it is timely to remind all members that standing orders do not permit the use of props. As a point of order as been taken, I expect that all members will take note of it.

The Hon. ERIC ROOZENDAAL: Thank you for that guidance, Madam President. If any member would like to see a clearer version of that document, they can go to VEXNEWS, which is a very interesting webpage. Indeed, if members are really interested—

The Hon. Duncan Gay: Point of order: My point of order relates to relevance. The question was about a bridge in regional New South Wales; it was not about politics in general. It was a question about a bridge, and the Minister is trifling with the people of regional New South Wales.

The PRESIDENT: Order! I have already cautioned members about using points of order to make debating points. With regard to the first part of the point of order on relevance, I ask the Minister to be generally relevant. With regard to the second part of the point of order, I remind the Deputy Leader of the Opposition not to use points of order to make debating points. His continuing to do so will result in the member being formally placed on a call to order. The Treasurer may proceed.

The Hon. ERIC ROOZENDAAL: Key features of the Roads budget include the \$1.8 billion to build new roads, around \$1 billion for maintenance of the State's existing roads, the more than \$3.1 billion we have spent on rural and regional roads, and around \$325 million for improvements in the traffic network. I could go on. This is all part of our commitment to roads right across New South Wales.

TRADE RELATIONS WITH INDIA

The Hon. TONY CATANZARITI: My question is addressed to the Minister for State and Regional Development. Will the Minister update the House on latest developments in New South Wales's trade relationship with India?

The Hon. IAN MACDONALD: I thank the Hon. Tony Catanzariti for his question on this significant and important issue. India is one of New South Wales's largest and strategically most important trading partners. Indian business investment, and procurement of goods and services from New South Wales, supports local jobs and is an important economic driver as we recover from the global financial crisis. Bilateral trade between New South Wales and India stood at \$2.1 billion in 2008-09, and New South Wales exports to India in the same year were valued at \$1.4 billion. In fact, in the five years to 2008-09 New South Wales exports to India have grown at a nominal average annual rate of 29 per cent, the third-highest rate of growth in the State's top 30 export markets. Our top export commodity to India is coal, coke and briquettes, valued at \$839 million in 2008-09, an increase of 192 per cent on the previous year.

The massive growth of the Indian economy continues to present opportunities for New South Wales businesses, and the International Monetary Fund has forecast India's economy to grow at 6.75 per cent in 2009-10 and rise to 8 per cent in 2010-11. To ensure New South Wales is well positioned to win our share of new investment as the Indian economy grows, the Keneally Government is taking a proactive, hands-on approach. Through our trade offices and business support programs, Industry and Investment NSW is linking local businesses with international opportunities, and encouraging Indian investment in the New South Wales economy.

The Government's approach has already paid dividends, as evidenced by the number of Indian banks that have chosen to establish a presence in New South Wales, including the Bank of Baroda, the State Bank of India, and most recently Union Bank of India. The decision of these banks to locate here is an endorsement of Sydney as an international finance hub and has underpinned the performance of our international finance and insurance sector to become New South Wales's second-fastest growing industry, recording annual average growth of 4.7 per cent per annum between 1997-98 and 2007-08.

It is an unfortunate fact that the excellent trade relationship we have with India is being put at risk by the recent ugly events in Victoria, including the assaults on Indian students. I am sure I speak for all members of this House in saying that these attacks are repugnant and we condemn those responsible. While these events are south of our borders, internationally they have tarnished us all. That is why it is important, now more than ever, for New South Wales to demonstrate our commitment to respectful, cooperative and productive trade relations with India.

At the recent Indian community roundtable Premier Keneally told community leaders we are a proudly multicultural community, and a welcoming and safe destination for those seeking an international education. This is also the message I will be taking to India next week, where I will be meeting with senior Government officials and industry leaders. I will be saying that international students are welcome guests in New South Wales and that we are doing everything possible to ensure their safety.

The Hon. Duncan Gay: Barry O'Farrell will be there ahead of you.

The Hon. IAN MACDONALD: I have been in India a couple of times, as the Deputy Leader of the Opposition well recalls, dealing with very important issues, including bilateral trade and investment. I will tell India's senior government officials and industry leaders about the establishment of the Premier's Council on International Education, the first of its kind in Australia, and other initiatives put in place by the New South Wales Government. I will be accompanied by a senior member of the New South Wales Police Force, who will outline the initiatives undertaken by police to enhance safety for international students. These are difficult and important issues, but with open and honest dialogue, and by demonstrating our commitment to the trade relationship, we can repair the damage and strengthen our ties even further with the people and businesses of India.

RENEWABLE ENERGY

Dr JOHN KAYE: My question is directed to the Minister for Energy. Which of the following accurately reflects the New South Wales Government's position on renewable energy: Is it the Premier, Kristina Keneally, when on 9 February she talked of "the Government's plan to support reliable sources of renewable energy", or is it Macquarie Generation in its response to comments on the environmental assessment report for the proposed Bayswater B power station, where it dismissed renewable energy with the statement, "Other States have better renewable energy resources"? Given that both of these cannot correctly represent the New South Wales Government's position, will the Minister ask Macquarie Generation to amend its response to the environment assessment report submission to reflect the excellent wind and solar thermal opportunities that exist for baseload power within New South Wales?

The Hon. JOHN ROBERTSON: I thank Dr John Kaye for the predictable question. I feared that we would run out of time before I was asked it. The New South Wales Government is not ignoring gas and renewables. The policy settings for these important energy sources are central to the Government's clean energy policy that is currently being developed. New South Wales has very significant renewable resources and potentially very significant coal seam methane reserves. And we are already seeing strong development of gas and renewables on the ground. For example, we have had 2,000 megawatts of new gas and wind generation come on line in New South Wales over the past 18 months. This includes Delta Electricity's \$500 million Colongra gas-fired power plant that I had the pleasure of opening in December. Unlike the Opposition, we have a strong commitment to wind power. Last year we announced the establishment of six wind energy precincts and a range of support to further encourage the development of wind farms in this State.

It is worth noting that earlier today the Deputy Leader of the Opposition said we ought to pull down the wind farms near Crookwell. He said they should have been pulled down. That is the Coalition's commitment to renewable energy: Pull down the turbines! The recent opening of the Capital Wind Farm, which is providing the electricity needs of Sydney Water's desalination plant, shows that wind farm development in New South Wales is proceeding and that we have the necessary conditions in place. The Ministerial Council on Energy is taking early action to facilitate the connection of wind farms, particularly in remote locations. And the New South Wales Government is working closely with the City of Sydney on its Green Transformers project, which aims to establish low emission cogeneration and tri-generation sites across the city.

The private sector is aware of the Government's commitment to ensuring that greenhouse pollution is appropriately dealt with. Power investment decisions, including those to be made by the private sector, in relation to the development sites are long-term decisions and will be made in the knowledge that greenhouse gas pollution must be taken into account. New South Wales has sufficient electricity generation capacity to meet demand until at least 2015-16, as identified in the 2009 Electricity Statement of Opportunities released by the Australian Energy Market Operator in August 2009.

Earlier today I heard Dr John Kaye on ABC Radio 702 talk about outdated reports being used to justify the position we have taken. It is difficult to see how a report that was commissioned and delivered just last year could be out of date, as Dr John Kaye seems to claim. This report says that supply constraints may occur in New South Wales, not Sydney, if at least 182 megawatts of new generation is not built before 2015-16. We actually have over 13,000 megawatts of approved or planned generation for New South Wales alone—that includes over 5,500 megawatts with development approval and around 7,500 megawatts in the planning system. New South Wales has been prudent in planning for future power requirements and has the conditions right for private sector development of future capacity.

SYDNEY POWER SUPPLY

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Commerce, Minister for Energy, and Minister for Public Sector Reform. Given the Minister's emphatic declaration on television on Tuesday night that he will guarantee Sydney's power supply will not be interrupted, will the Minister commit to resigning should such an interruption take place? Will the Minister put his money where his mouth is?

The Hon. JOHN ROBERTSON: I thank the honourable member for his question. It was a rather interesting interview but, frankly, I was disappointed that the television program misrepresented what occurred during that interview. It was badly reported by Channel 10, and I will now correct the record. The fact is that Sydney city council's proposal for co-generation and tri-generation is not to remove itself from the grid. During the interview I said that Sydney city council is working with the New South Wales Government on a Smart Grid project.

The Government, in conjunction with Sydney city council and Newcastle City Council, has lodged an application for the \$100 million funding that is on offer from the Federal Government for a Smart Grid project. Part of that project is about the Government working with Sydney city council to establish co-generation and tri-generation opportunities under Sydney Town Hall. It also includes a range of other matters: for example, working with Newcastle City Council to run a fleet of 20 electric vehicles, and with Sydney city council to operate another fleet of electric vehicles. It is about putting in place a system at Scone to store energy batteries so that if any problems arise on the network and power is lost, those batteries will be used to power street lighting. It is about putting in place a system similar to that which operates in modern day computers whereby faults that are identified are repaired; the network will have the capacity to self-repair minor faults and defects. I was commenting in the context of sufficient energy supply and generation capacity, so I could certainly guarantee that the Government will have sufficient generating capacity to meet the needs of the people of New South Wales until 2015-16.

Worth noting is the fact that most people do not understand how the electricity market works. We do not rely just on our capacity to generate electricity in New South Wales. We have in the network "interconnectors", which allow the Government to export and import energy from generators in Queensland and Victoria. This is not simply about how much generation capacity exists in New South Wales. Sometimes we purchase from generators in Queensland and Victoria and, at times, those States purchase from our generators. The point I was making in that interview was that we have sufficient generating capacity for me to guarantee that we will always be able to supply electricity to the people of New South Wales.

The Hon. JOHN HATZISTERGOS: I suggest that if members have further questions, they place them on notice.

REPCO RALLY

The Hon. IAN MACDONALD: Earlier in question time Mr Ian Cohen asked me a question about the Repco Rally. A review is being conducted and will cover all aspects of the rally, including an economic analysis. I am advised that pursuant to legislation the review must be completed within 12 months, so we have plenty of time to complete it.

Questions without notice concluded.

[The President left the chair at 1.05 p.m. The House resumed at 2.35 p.m.]

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Substitute decision-making for people lacking capacity

The Hon. Trevor Khan, on behalf of the Chair, tabled report No. 43, entitled "Substitute Decision-making for People Lacking Capacity", dated February 2010, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice.

Ordered to be printed on motion by the Hon. Trevor Khan.

The Hon. TREVOR KHAN [2.36 p.m.], on behalf of the Hon. Ian West: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Trevor Khan and set down as an order of the day for a future day.

DEATH OF RUBY HUNTER

Motion, by leave, by Mr Ian Cohen agreed to:

That this House:

- (a) notes the passing of Ngarrindjeri woman Ruby Hunter, the esteemed musical artist, performer and activist for reconciliation,

- (b) acknowledges the extraordinary courage of Ruby Hunter, who, as a member of the Stolen Generations, overcame a great deal of personal difficulty and pain to forge a musical career whilst caring for her large family,
- (c) notes the significant achievements in Ruby's career, including performing throughout Australia and overseas as an integral member of the Black Arm Band collective; winning many awards, among them the Deadly awards in 2000 for Female Artist of the Year and in 2003 for Outstanding Contribution to Aboriginal and Torres Strait Islander Music, and in 2004 for Excellence in a Film and Theatrical Score; gaining two ARIA Award nominations and, with her husband, Archie Roach, receiving the Sidney Myer Performing Arts Award for their exceptional contribution to Australia's cultural life through the performing arts,
- (d) acknowledges Ruby as an inspiration to all Australians in championing the cause of reconciliation, and notes that Ruby and Archie's song *Took The Children Away*, which they performed on the day of the national apology to the Stolen Generations in Melbourne's Federation Square, was an anthem for the Stolen Generations, and
- (e) extends condolences to Archie Roach, Ruby Hunter's husband and musical collaborator, and their family.

HELENSBURGH LAND DEALINGS

Personal Explanation

Ms SYLVIA HALE, by leave: I wish to make a personal explanation. On 3 December last year I spoke in this place and raised concerns on behalf of residents of the Illawarra about land dealings at Helensburgh and Otford involving Mr Bob Hogarth and Ensile Pty Ltd. I had received advice that seemed to indicate that the way certain land had come into Ensile's ownership may not have been by the usual manner. My staff spent considerable time researching the question of ownership. Unfortunately, it was only after I had spoken in Parliament and the Parliament had recessed that the Australian Securities and Investment Commission located the relevant corporate documentation. However, the commission's staff were unable to explain why the records have been archived without being recorded on the relevant online register. Uncertainties regarding ownership of the land in question have now been resolved, as has Mr Hogarth's paying of rates to Wollongong City Council for the land. I was in error and I apologise to Mr Hogarth for any embarrassment the raising of these matters may have caused him and his family. I also thank the Minister for Lands and staff of the Department of Lands for their assistance in clarifying some of these issues.

RETIREMENT VILLAGES ACT 1999: DISALLOWANCE OF RETIREMENT VILLAGES REGULATION 2009

Debate resumed from an earlier hour.

Ms SYLVIA HALE [2.39 p.m.]: Earlier I was speaking to the import of the regulation as it currently stands. I now address the issue of what would happen were clause 5 (1) (a) of the regulation to be disallowed. There would be no substantial problem because the changes to the Act have not yet been proclaimed and we are still operating under the old Act. In like manner, the new regulation has not yet commenced. Therefore, there is still time to redraft it, although there is no reason why we should be in a hurry to do so. The definition section in the 2008 Act, which is yet to be proclaimed, defines capital replacement and capital maintenance in a general way. This will still stand and, therefore, the definition can be disputed in the Consumer, Trader and Tenancy Tribunal, if necessary.

The Residential Village Residents Association is not happy with the Government's approach. It considers that the industry has exerted pressure on either the Minister or another level of government to change the wording of the regulation. Should the House reject the regulation, the Government can draft a revised version very quickly if it wishes. Of course, the Government would have to enter into negotiations in good faith with the Residential Village Residents Association. The way the regulation has been drafted will not put an end to disputes in the Consumer, Trader and Tenancy Tribunal as to who pays for what. There is no reason a prescriptive and detailed regulation cannot be gazetted. There are many examples of very prescriptive regulations. I do not understand why the Minister has rejected such an approach. The motion seeks the disallowance of a small portion of the regulation and would allow the possibility of meaningful negotiations which, I hope, will satisfy the residents, if not the village owners.

The Hon. ROBERT BROWN [2.42 p.m.]: In keeping with many of the matters that come before this House, including debate on the Retirement Villages Act, it seems we always have to make a decision within a few nanoseconds. Over the past couple of days the Shooters Party has had representations from the mover of the motion, the Hon. Catherine Cusack, and representations from the Minister's office and this morning we spoke to Retirement Village Association [RVA]. We have asked for certain things to be clarified, but the response from

the Minister's office has not really negated any niggling worry we had, as expressed in the motion. We asked the Minister a simple, straightforward question: Does the new definition of capital maintenance override a resident's contract? My colleague, the Hon. Roy Smith, and I are not lawyers, although I note there is a surfeit of them in this House. The answer that came back from the Minister's office was:

The making of the new regulation does not change the status of contracts in this regard relative to the current law.

That is in direct disagreement with what the owners and operators themselves said this morning, and I think they would have a pretty fair understanding of the way it goes. The advice from the Minister went on to say:

In any particular case a specific wording in the contract would need to be considered before a definitive answer could be given.

That is the sort of thing one would hear in an episode of *Perry Mason* or in any court of law. In other words, the Minister's office has reneged on the first statement or it is not quite sure. That causes us some concern. In relation to the source of angst for the residents of these facilities, being an internal memorandum from the Retirement Village Association to its members about a saving of \$70 million, of course this morning the association went to great pains to tell us that in fact the memorandum was misconstrued and that what it was referring to was that the way the clause is drafted now would save the industry \$70 million over and above what it would from the way the clause was originally drafted. One has to take the Retirement Villages Association at its word on that but if that is the case then the association should have a very careful look at how it corresponds with its members. I understand that the memorandum was an internal document to its members but, even so, the association should be a bit more careful with the way it handles these issues.

My colleague and I still have reservations regarding issues of major capital maintenance such as the painting of an entire complex. We raised the issue of structural fault. We have been reassured that another part of the Act negated any responsibility on the residents. We could not find that in the Act, although we have not had much time to look. Balancing all those factors, the Shooters Party will support the motion.

The Hon. CHRISTINE ROBERTSON [2.45 p.m.]: The Government will not support this irresponsible motion put forward by the Opposition. The Minister has extensively consulted on this regulation, and the final regulation, due to commence on 1 March 2010, is a fair and balanced outcome. In regard to the capital maintenance clause, the existing cost-sharing arrangements under the Retirement Villages Act are not changed by these reforms. This reflects the strong position that was put to the Government during the debate on the amendment bill in 2008 by residents, operators and members of this place and a commitment that the Government made to them.

Operators will remain fully responsible for replacement and depreciation of fixed capital items. Residents' recurrent charges can be used to pay for maintenance, with the residents' agreement, as is currently the case. This principles-based approach is taken in response to input by both residents and operators on the draft regulation. It also acknowledges that common property, such as roads, roofs and drains, is used by all residents, who then contribute towards its maintenance but not its replacement. The regulation does not shift costs from operators to residents.

The Opposition proposes to remove the definition, but it has no alternative proposal, no alternative policy. What a surprise! The submission of the member for Albury to the consultation on the regulation failed to make any policy suggestions. He suggested it be "reviewed in close cooperation with informed representatives". I thought that is what we had done when we sat in this place for hours during the passage of the bill and during the consultations following. That is what we in government did. The draft regulation dealing with capital maintenance and replacement was deemed not acceptable by operators, residents and the Opposition. Among other things, it clearly distinguished the responsibility for internal and external painting. Yet the Coalition opposed this. To quote from the Opposition's submission on the draft regulation:

Village operators and owners are being expected to pick up a sizeable increase in expenditure.

The Opposition spokesperson for Fair Trading had the opportunity to support the proposal over which he is now crying crocodile tears. Disallowing the clause in the final regulation will most certainly not provide certainty to residents or operators about who pays for what. In fact, it is likely to perpetuate disputes and confusion.

In contrast, the regulation as drafted will improve consumer protections, ensure that residents cannot be ripped off by paying for unnecessary or uneconomical repairs or for improvements to the operators' property, and provide greater guidance for residents and operators considering budget processes. Residents also will be

able to openly and clearly see the planned capital maintenance costs as part of the annual budget process and query them, see copies of quotes, negotiate with the operator or vote against them. If disagreement remains, residents and operators would still have the option of going to the tribunal to sort out the issue. I can assure members that the Government will monitor these regulations following commencement, including how this capital maintenance clause operates in practice. If it does not operate in practice as the Government intends, the Minister has committed to review the regulation.

These reforms are a genuine attempt to balance the interests of all these people while enhancing the rights of retirement village residents. The community expects a system that provides housing choice and appropriate services for seniors and delivers certainty for residents and operators. Approximately two-thirds of the State's almost 600 retirement villages are operated by the not-for-profit sector, including the Returned Services League and church welfare organisations. In many cases the not-for-profit operators do not charge residents an ingoing or outgoing contribution or ask them to pay for all of the maintenance. It is important that operators in the not-for-profit sector are able to continue to provide quality accommodation to a range of residents regardless of their financial position.

In conclusion I will highlight some of the benefits these new laws will provide to residents. They include that residents will not be able to be charged for operators' overseas travel costs or payroll tax except where the village is large enough to attract the tax in its own right or residents had previously approved the charge and continue to do so. The reference to overseas travel costs is interesting. Operators will no longer be able to carry forward deficits to the following financial year except where they relate to certain utility and insurance costs or urgent maintenance. A new settling-in period will be introduced to allow future residents to move out within 90 days without paying excessive costs if the village does not meet their needs. Residents leaving a village will be required to pay the full amount of ongoing charges for only six weeks instead of six months. Residents will also be better protected if their village goes broke, with their refund entitlements to be given priority ahead of those of other creditors. This motion cannot be supported.

Reverend the Hon. FRED NILE [3.50 p.m.]: The Hon. Catherine Cusack's motion states:

That, under section 41 of the Interpretation Act 1987, this House disallows clause 5(1)(a) of the Retirement Villages Regulation 2009, published on the NSW Legislation Website on 18 January 2010 and tabled on 23 February 2010.

This debate and the disallowance motion have been triggered by the original Retirement Village Association of Australia [RVAA] letter which was sent to its members and which referred to a saving of \$70 million for operators. I met with association representatives this morning and they were shamefaced about the letter. I asked them to provide some clarification. The document was not a press release; it was an internal memorandum to its members. I have been provided with a response dated 25 February 2010. The response, which has now been sent to all of the chief executive officer members of the Retirement Village Association Limited, states:

I am writing to provide clarification in relation to the RVA memorandum forwarded to members in December last year, dealing with the Retirement Villages Regulation, 2009.

Given the exhausting amount of time and energy that has been spent discussing and negotiating this matter with the Retirement Villages Residents Association, the New South Wales Office of Fair Trading, the Government, the Opposition, minor parties and aged and community services, it was with an enormous sense of relief that the RVA communicated to you—

That is, the RVA chief executive officers—

what seemed to be a positive shift towards a fair and commonsense position in terms of Regulation definitions. We are fully aware that some aspects of the Regulation were creating extreme concerns in industry circles, and saw it as our duty to report developments to you in the most succinct and timely manner.

The key headings of the memorandum were broken down to:

- Capital Maintenance
- Head Office Costs
- Payroll Tax
- Contingencies, and
- Making Good a Deficit, and Legal Fees.

In relation to Capital Maintenance, reference was made to 'savings to the industry in NSW of approximately \$70 million per annum'.

The RVA may have inadvertently created an impression that \$70 million in savings to the industry would result in a \$70 million cost burden being shifted to residents. This is absolutely not the case, and, clearly, the description needs to be considered in context.

The actual situation is that, in the opinion of the RVA, village owners and operators will be spared approximately \$70 million in totally unnecessary expenses that may have arisen due to the prescriptive and unworkable definitions in the previous Regulation draft. It was this very uncertainty that was causing so much concern to the industry, and, accordingly, we attempted to express an estimation of savings to the industry to articulate what might have been the case if the draft Regulation had not been amended to reflect a position closer to that prescribed under the 2000 regulation.

Our estimate of the \$70 million related in the main to the cost that the industry would have had to bear in respect of maintenance of items required by law under Clause 4b of the Public Consultation Draft Regulation.

The Regulation is currently the subject of debate in the NSW Upper House, and the RVA stands by the version approved by the New South Wales Fair Trading Minister late last year.

It is clear that the industry has shown a high degree of compromise to reach this point, including agreeing to many factors that are not at all to our favour, including paying recurrent charges on termination, the bearing of deficit costs and obligations in relation to payroll tax. However, in a spirit of compromise, we decided to show flexibility and good will to make progress for the benefit of all.

As it stands, the Regulation is a common sense approach that provides urgently needed clarity for both the industry and residents, and provides some security for the industry as it endeavours to maintain accommodation supply for seniors in New South Wales.

I will keep you informed as developments progress.

If you require any further information please hesitate to contact NSW/ACT Regional Manager Mark Eagleston...

Kind regards,

Mark Eagleston

As I said, that letter has just been received. Only the Hon. Catherine Cusack can say whether it would have encouraged her not to proceed with the disallowance motion. It certainly clarifies the original misleading letter that caused the explosive reaction from the residents' associations. They reacted to the inference that they would be required to pay for the \$70 million saving. As has been stated by RVA Australia, that is not the case. The other organisation closely involved in and deeply concerned about this debate is the Aged and Community Services Association of New South Wales and the ACT. That association covers the non-profit retirement villages, which I understand comprise the great majority of retirement villages. The association has written to me voicing its support for the regulation. Its letter states:

Changes to the regulations governing the operation of NSW retirement villages have been welcomed by Age and Community Services NSW & ACT.

Aged and Community Services (ACS) CEO Jill Pretty said the new regulations announced today were good news for both residents and operators of retirement villages.

"There will be greater simplicity, clarity and transparency surrounding the operation of retirement villages," Ms Pretty said.

The regulations, which are due to come into force in March next year, to support the Retirement Villages Amendment Act 2008, are the result of lengthy consultations.

Ms Pretty said ACS had canvassed members extensively and collaborated with the Retirement Villages Association and the Retirement Villages Residents Association.

"Being able to work closely with the Government has also ensured that the interests of all parties have been clearly represented and reflected in these changes," she said.

"The new regulations will be very welcome after the considerable time involved in the consultations.

"How and where we live as we get older is a significant decision for all of us. Retirement villages are a great option for thousands of people who want to downsize their accommodation and spend more time enjoying their retirement.

"Making the whole process easier to understand will afford current and future residents better protection regarding ongoing costs, maintenance and fees, and provide operators with a solid structure for planning and delivery of services."

ACS is the peak organisation for aged care services, community care services and retirement villages in NSW & ACT.

Some members have asked what will take the place of this regulation if this disallowance motion is agreed to. Obviously, as the Hon. Catherine Cusack is keen to have the regulation disallowed, she should have a clear idea of what will take its place. I would be grateful if she would respond to that in her reply.

The Hon. Catherine Cusack: I have explained that.

Reverend the Hon. FRED NILE: I do not believe it has been made sufficiently clear what will be in place of the disallowed regulation, and this will cause more uncertainty and confusion for the residents. We are all trying to work out how to let them live in their retirement in peace and relaxation. It seems, from what members have said in this debate, that this disallowance motion will probably be carried. My concern is what will take the place of the disallowed regulation. It will give the Government the opportunity to have further discussions about refining the wording and to introduce a new regulation, but I am concerned that some residents who are frightened by that \$70 million figure may be in a worse situation if this disallowance motion is passed. [*Time expired.*]

The Hon. CATHERINE CUSACK [3.02 p.m.], in reply: I thank all honourable members who contributed to the debate—Reverend the Hon. Dr Gordon Moyes, Ms Sylvia Hale, the Hon. Robert Brown, Reverend the Hon. Fred Nile and, speaking for the Government, the Hon. Penny Sharpe and the Hon. Christine Robertson. Reverend the Hon. Fred Nile made an incorrect assertion at the beginning of his comments that this disallowance motion was triggered by a circular from the Retirement Village Association, estimating the savings to industry of \$70 million. The motion before us today was triggered by last-minute alterations to the regulations made by the Minister—alterations made at one minute to midnight, literally without consulting or informing residents, even though the Minister met with residents within days of the publication of the regulation. It was that change to the regulation—and I think Reverend the Hon. Fred Nile has outlined it as clearly as anyone—that was so welcomed by the owners and operators of retirement villages.

I should clarify that these are not not-for-profit retirement villages. They are profitable retirement villages run by not-for-profit organisations, and that is a different situation altogether. There is no doubt that the owners were pleased with this regulation and, of course, the residents are unhappy with it. It has been postulated by some members, including Reverend the Hon. Fred Nile, that the way to help residents is to allow this regulation to go through when the residents are begging us to repeal it. We are pursuing this matter at the request of the residents. Do not underestimate the intellect, dedication and commitment of these residents and the work they have done. The material put forward by them is first class. As Reverend the Hon. Dr Gordon Moyes pointed out, we are talking about retired judges and very senior people with extraordinary minds. From an Opposition's perspective it is wonderful to have access to such incredible quality advice. These people are not fools, and they are not upset for no reason. The circular containing the \$70 million figure has been used to vindicate the views of residents and is strong evidence, but that did not trigger this motion: the flaws in the regulation were the trigger.

We have stated in quite a deal of detail that it is not urgent that this regulation be replaced, although we are asking the Government to look at new arrangements between the operators and residents. In the absence of this regulation things will revert to the status quo. The intention of the Government in making changes to this section of the Act was always to benefit the residents—and that has been stated by every Minister for Fair Trading who has handled this matter, seven or eight of them in all—and to clarify the capital and maintenance disputes, because residents were concerned that the situation was being abused. As Reverend the Hon. Dr Gordon Moyes point out, the abuse perpetrated on the residents by a small group of for-profit people in particular has been absolutely ruinous. They deserve to be protected.

Reverend the Hon. Fred Nile referred to roads. It is a great example of the maintenance/capital problem, that residents should be responsible for maintaining the road but not for replacing the road. One can see the difficulty we are in. Sometime after a road is laid in the village it may need to be resurfaced, repainted and all sorts of things done to it, all of which could be argued by the owner to be "maintenance" as opposed to "capital". Obviously, it was never the intention that these costs should be borne by the residents. I can tell the Hon. Robert Brown that when the residents signed their contracts they did so on the understanding that such costs would be taken care of by the owner-operator. In that sense the residents are angry at the retrospective impact of the regulation.

The expression used by the Retirement Village Association in its explanation was along the lines that it was "sorting out some unintended costs". I do not have the exact words used by Reverend the Hon. Fred Nile and I was not given the courtesy of being given a copy of the document he read from. However, it makes no difference and would have made no difference to us pursuing this motion. Reverend the Hon. Fred Nile has now provided me with a copy of the document. The situation is that in the opinion of the Retirement Village Association village owners and operators will be spared approximately \$70 million in totally unnecessary expenses, but those so-called unnecessary expenses are not specified and the association is trying to argue that

they are expenses that would have been incurred by owners and operators that would not otherwise have existed. Somebody has to meet these costs, and if it is not the owners, it will be the residents. The owners are saying they are unnecessary expenses. I do not know what that means. I do not understand how there could be \$70 million of unnecessary expenses. How can such an expense arise? No-one has explained what unnecessary expenses there could be. That leaves us believing that so-called unnecessary expenses are expenses incurred in the village that can be shifted back on to the residents. It is not that the expense is unnecessary; it is that the owner finds it unnecessary to be the one meeting the expense.

Reverend the Hon. Fred Nile: It is for administrative and other matters.

The Hon. CATHERINE CUSACK: An amount of \$70 million for administrative and other matters? Anyway, I thank the honourable member for providing me with a copy of the Retirement Village Association explanation. It is wholly unpersuasive to the Opposition and we will be pressing ahead with the motion. I thank all members for their contributions. I thank the Hon. Robert Brown and the Hon. Roy Smith for being in the Chamber during this debate and for spending considerable time on this matter. We all know that neither member accepts the word of anyone on any issue; they conduct their own inquiries and make up their own minds. On this occasion I welcome the decision they have reached on this matter.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

Mr Brown	Dr Kaye	Mrs Pavey
Mr Clarke	Mr Khan	Ms Rhiannon
Mr Cohen	Mr Lynn	Mr Smith
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Reverend Nile	Mr Colless
Ms Hale	Ms Parker	Mr Harwin

Noes, 14

Mr Catanzariti	Mr Obeid	Ms Sharpe
Ms Griffin	Mr Primrose	Mr Veitch
Mr Hatzistergos	Mr Robertson	<i>Tellers,</i>
Mr Kelly	Ms Robertson	Mr Donnelly
Mr Moselmane	Mr Roozendaal	Ms Voltz

Pairs

Mr Ajaka	Mr Della Bosca
Mr Gallacher	Mr Macdonald
Mr Gay	Mr West
Mr Pearce	Ms Westwood

Question resolved in the affirmative.

Motion agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 183 outside the Order of Precedence, relating to the State Senate Bill, be called on forthwith.

Question put.

The House divided.**Ayes, 17**

Mr Brown	Reverend Nile	Ms Sharpe
Mr Catanzariti	Mr Obeid	Mr Smith
Ms Griffin	Mr Primrose	Mr Veitch
Mr Hatzistergos	Mr Robertson	<i>Tellers,</i>
Mr Kelly	Ms Robertson	Mr Donnelly
Mr Moselmane	Mr Roozendaal	Ms Voltz

Noes, 16

Mr Clarke	Dr Kaye	Mrs Pavey
Mr Cohen	Mr Khan	Ms Rhiannon
Ms Cusack	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Miss Gardiner	Reverend Dr Moyes	Mr Colless
Ms Hale	Ms Parker	Mr Harwin

Pairs

Mr Della Bosca	Mr Ajaka
Mr Macdonald	Mr Gallacher
Ms Westwood	Mr Gay
Mr West	Mr Pearce

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That Private Members' Business item No. 183 outside the Order of Precedence be called on forthwith.

STATE SENATE BILL 2010

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading

Reverend the Hon. FRED NILE [3.27 p.m.]: I move:

That this bill be now read a second time.

I thank members of the House for allowing me to bring on this bill and deliver the second reading speech. The State Senate Bill 2010 is very simple but historical. Obviously, it will not and cannot amend the New South Wales Constitution and the wording that established the original New South Wales Legislative Council. However, in recent years the Legislative Council Clerks have displayed at a Legislative Council estimates committee public hearing a large banner that reads "New South Wales Senate". It is time, therefore, that this bill is passed in order that the Legislative Council can be referred to by an alternative title, the New South Wales Senate.

It is also important that members have the option of using alternative language to describe themselves, such as "State Senator" rather than the archaic term "the honourable". I acknowledge that some members already have protested over the use of the term "the honourable" and have asked that members of the House and the President not use the term when they are addressing them. I respect their right to make that request. When visiting the United Kingdom, where there is still a class structure, officials have believed, when I have been

introduced as Reverend the Hon. Fred Nile, that I have some aristocratic association with the Royal family, because that is what the term "honourable" is associated with in the United Kingdom. But, as members know, I come from the working class, with a wooden spoon in my mouth rather than a silver spoon.

What this bill proposes is already the practice in other nations that originally had legislative councils, especially in the United States of America, where the upper Houses are known as State Senates and the members as State senators. When visiting the United States, as I have done on many occasions, I explain that my role is that of a senator in the New South Wales State Senate. I do that to let them understand my role, to clarify my position and to avoid confusion surrounding the title of MLC held by a member of the Legislative Council.

When this bill is passed the use of the terms "State Senate" or "Senator" will be optional for members. Members will also still be free to use the title "honourable" and to describe this House as the New South Wales Legislative Council if they wish. However, I assume the terms "New South Wales Senate" and "State Senator" will be used at all official activities and on the correspondence of the President, the Clerks and their staff. It will be optional for each member of this House as to how they direct their staff about what terminology they require to be used. It will also be optional for members to decide how they will use this new terminology on their letterheads, business cards, compliments slips, et cetera.

The object of the bill is to authorise the use of the term "State Senate" in reference to the Legislative Council and to authorise the use of the term "State Senator" in reference to a member of the Legislative Council. Clause 3 of the bill states:

The State Senate and Senators

- (1) The Legislative Council may also be called the State Senate, and the use of that name has the same effect for all purposes as the use of its other name.
- (2) Accordingly, a member of the Legislative Council may also be called a State Senator.

The title of the Legislative Council was adopted in 1823 under the New South Wales Act 1823. That Act stated in part:

And whereas it may be necessary to make laws and ordinances for the welfare and good government of the said colony of New South Wales and the dependencies thereof, the occasion of which cannot be foreseen ...and whereas it is not at present expedient to call a legislative assembly in the said colony Be it therefore enacted that it shall and may be lawful for his Majesty, his heirs and successors by warrant under his or their sign manual to constitute and appoint a council to consist of such persons resident in the said colony not exceeding seven nor less than five as his Majesty, his heirs and successors shall be pleased to appoint...

At its establishment, the Council was a deliberative or consultative body responsible for advising the Governor in making laws. At that stage it had no independent legislative power. It met in secret and members were under oath not to reveal its deliberations. The Oath of Appointment to the first Council stated in part:

I do swear that I will, to the best of my judgement and ability, faithfully advise and assist the Governor ... in all such matters as shall be brought under my consideration as a Member of the Council of the said Colony; and I swear that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or which shall become known to me as a Member of the said Council.

Times have changed since 1823. This Council is a body that is open to the public in all its deliberations. The derivation of the name "Legislative Council" is most likely from the term "Privy Council". In Britain, the Privy Council is a body that advises the Head of State on how to exercise his or her executive power. The word "privy" means private or secret; thus a Privy Council was originally a committee of the Monarch's closest advisors that gave confidential advice on affairs of state. The model of the Legislative Council, which met in secret as an advisory body to the Governor, is along similar lines, although its remit was to advise the Governor in relation to the making of laws for the peace, welfare and good governance of the colony.

In *An Encyclopaedia of Parliament*, Wilding and Laundry indicate that "Legislative Council" was the name usually given to the colonial legislatures of the British Commonwealth. The term was adopted in all six Australian colonial legislatures, although the Legislative Council of Queensland was abolished in 1922. The Legislative Councils of New South Wales, Victoria, Tasmania, South Australia and Western Australia remain. The term was also adopted to describe the upper Houses of the provincial Canadian legislatures—all those upper Houses have since been abolished—and the New Zealand Legislative Council was abolished in 1951. Today, section 3 of the Constitution Act 1902 defines "The Legislature" as follows:

The legislature means His Majesty the King with the advice and consent of the Legislative Council and Legislative Assembly.

The legislative powers of the New South Wales Parliament were traditionally constrained by imperial links to the British Parliament. Section 1 of the Colonial Laws Validity Act 1865 defined an Act of the British Parliament as extending to the colony of New South Wales, provided that the Act was "made applicable to such colony by the express words or necessary intendment". Section 2 of the Act made any colonial laws that were repugnant to the provisions of any British Acts "absolutely void and inoperative".

This arrangement did not change at Federation in 1901. The Commonwealth of Australia and the States continued to exist as colonies, although from 1907 the description of "dominion" was accorded to the larger colonies such as Australia, South Africa, New Zealand and Canada. It was only in 1931 that the Statute of Westminster 1931 released the Commonwealth Parliament from imperial constraints on its legislative power. Under that Act the Commonwealth Parliament could now legislate in a manner repugnant to British law. However, the states, including New South Wales, were not similarly released until 1986 and the enactment of the Australia Acts. Under section 1 of the Australia Act 1986 (UK) the British Parliament abdicated any legislative power over the States and Territories, and section 2 provides:

It is hereby declared and enacted that the legislative powers of the Parliament of each State include full power to make laws for the peace, order and good government of that State...

Accordingly, in 1986 the New South Wales Parliament ceased to be a colonial legislature—some members may be surprised by that. It may be argued that the title of the Legislative Council, possibly implying a colonial legislature which advises the Governor in secret but which has no legislative power, is no longer relevant or appropriate.

It has previously been argued in debate in this House that the title of New South Wales Senate would engender greater recognition and understanding than the title Legislative Council. In his valedictory speech in 1998, the Hon. Bryan Vaughan—and I obviously discussed this matter with him during his time in this place—observed:

Madam President, on Tuesday, 1 December, at a luncheon in your dining room for a German delegation, I sat next to a visiting German delegate, retired State Minister Professor Ursula Maennle of Bavaria. Professor Maennle pointed to the cover of the menu and said, 'Speaker Murray MP is obviously a member of Parliament, but what are you?' I said, 'The President is not an MP, she is an MLC' The professor said, 'What is that?' I told her that the Legislative Council was a State Senate...as they would say in German. 'Ah', she said, 'I know what you mean.'

On 24 May, the Leader of the House, the Hon. Barrie Unsworth MLC, observed:

I myself have had difficulty explaining my position to American visitors on occasions when I have had the opportunity to visit the United States of America and have tried to explain the Legislative Council's function. Certainly in recent times I have found it much easier to explain my position and this happened recently when I met the United States Attorney General by saying that I am the majority leader of the State Senate. He understood what I was talking about. If I had given him the correct designation of my office, I feel he would still be contemplating what I was doing in this legislature.

It is likely that in international circles the title of "Senate" or "State Senate" engenders greater recognition than the title of "Legislative Council", which is a Commonwealth and colonial term. In relation to the United States of America, it is notable that all US States except Nebraska have a State Senate. They also generally have a Legislative Council, but in most instances this body is constituted to provide non-partisan legal and other advice to the legislators. At the domestic Australian level, it may be argued that the greater public awareness and recognition of the Commonwealth Senate and the role it plays within the Commonwealth system of government may engender greater recognition of the title "New South Wales State Senate". The fact that the New South Wales Legislative Council performs similar functions to those of the Commonwealth Senate, acting as a House of review and actively seeking to hold the executive Government to account and having relatively strong legislative powers, similar electoral arrangements and a similar strong committee system, may further support this change. When I first proposed this bill the Hon. Tony Kelly sought advice from the Clerk of the Parliaments, Ms Lynn Lovelock. It is important that members are made aware of the information in her reply. In a letter dated 26 May 2009 she said:

Dear Minister

The proposal to rename the Legislative Council the New South Wales State Senate

You have asked for briefing material in relation to a proposal to rename the Legislative Council the New South Wales State Senate.

A change of the name of the Legislative Council to the New South Wales State Senate would likely require amendment to the *Constitution Act 1902*.

In 1991, the Democrats had an amendment prepared by Parliamentary Counsel to be moved during debate on the Constitution (Legislative Council) Amendment Bill 1991 to provide for the insertion of a new section 18 into the *Constitution Act 1902* to provide:

18. Legislative Council also called the Senate

- 1) The Legislative Council may also be called the Senate, and the use of that name has for all purposes the same effect as the use of its other name.
- 2) Accordingly, a Member of the Legislative Council may be called a Senator.

In the event this amendment was not moved.

The 1991 proposed amendment entailed providing the Legislative Council with an additional title. Adding an additional title would not appear to affect any of the entrenched provisions of the *Constitution Act 1902* since it does not *prima facie* alter the constitution, powers or procedures of the Legislature, which is the test applied in *Trethowan v Peden* [(1930) 31 SR (NSW) 183 (FC)].

The alternative would be to seek an outright change in the title of the Legislative Council to the New South Wales State Senate. This may be a little more problematic, in that the manner and form provisions of the *Constitution Act 1902* refer to the Legislative Council, and specifically exclude entrenched sections from either repeal or amendment without a bill passing both Houses and being approved at a referendum.

That is the key factor. Under the provisions of this bill, we will not require a referendum. Although I assume such a referendum would be carried, it would involve a great deal of administrative resources and place a financial burden on the State. The Clerk of the Parliaments, Lynn Lovelock, continued:

There are several issues to be considered. For example, it may be possible to effect a name change without amending the *Constitution Act 1902* by amending the Interpretation Act 1987 to provide that any reference to the Legislative Council is a reference to the NSW State Senate. If this is not possible, a separate bill amending the *Constitution Act 1902* would be required. It is not clear to me whether such a bill would need to be submitted to a referendum, in accordance with section 7A, since I am uncertain whether changing the name of the Council to State Senate actually constitutes an alteration to the constitution, powers or procedures of the Legislature. Anne Twomey, for example, maintains that whether a law affecting an entrenched provision is a law with respect to the "constitution, powers or procedure" of the Parliament must be assessed in each particular case based upon the nature of the particular law.

The Council also has records that Parliamentary Counsel previously prepared a bill in the early 1990s to change the title of the Legislative Council, presumably to the New South Wales State Senate. However, the Council does not have a copy of the bill.

The adoption of the title of New South Wales State Senate would have the advantage that it is more reflective of the current role of the Council. It may be argued that the title of the Legislative Council, implying a colonial legislature which advises the Governor in secret, but which has no legislative power, is no longer relevant or appropriate.

Another advantage may be that the title of New South Wales State Senate would engender greater recognition and understanding than the title Legislative Council. The strong public awareness and recognition of the Commonwealth Senate, and the role that it plays within the Commonwealth system of government, may engender greater recognition of the title New South Wales State Senate. The fact that the New South Wales Legislative Council performs similar function to the Commonwealth Senate, acting as a House of Review actively seeking to hold the executive government to account, with relatively strong legislative powers, a similar electoral arrangement, and a similarly strong committee system, may further support this.

Finally, the adoption of the title of New South Wales State Senate, and the renaming of members of the Council as State Senators, may address an anomaly whereby members of the Legislative Assembly are referred to as MPs—that is, Members of Parliament—rather than Members of the Legislative Assembly (MLAs), whereas members of the Council continue to retain the title of Member of the Legislative Council (MLCs).

There are precedents in favour of this proposal. The Clerk of the Parliaments does not see any legislative obstruction to the passage of this bill. I call on members of the House to give the bill their wholehearted support so that we can move into a new era in the historic development of the Legislative Council. The new titles of "State Senate" and "State Senators" more accurately reflect the duties of members of this House. I thank the House for giving me the opportunity to present this bill and look forward to the support of members.

The Hon. DON HARWIN [3.49 p.m.]: I move:

That this debate be now adjourned.

The PRESIDENT: Order! In relation to the adjournment of the bill introduced by Reverend the Hon. Fred Nile, Standing Order 137 (3) states:

After the first reading on any bill, other than a bill received from the Legislative Assembly, the second reading may be moved immediately or made an order of the day for a later hour or for a future day. Immediately following the second reading speech by the mover, debate is to be adjourned until a future day which must be at least five calendar days ahead.

There are also provisions in the standing orders that dilatory motions, which are motions to, in a shorthand way, refer bills off into the ether, must be moved in a manner that makes it clear to the House the intention of the person moving the motion. As that was not the case in respect of the motion to adjourn the debate moved by the Hon. Don Harwin, I rule that the motion to adjourn the bill without any reference to a time frame is not in accordance with the standing orders and is therefore out of order.

The Hon. GREG DONNELLY [3.52 p.m.]: I move:

That this debate be now adjourned for five calendar days ahead.

Question put and resolved in the affirmative.

Motion to adjourn the debate agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by Dr John Kaye agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 233 outside the Order of Precedence, relating to a further order for papers regarding Tillegra Dam, be called on forthwith.

Order of Business

Motion by Dr John Kaye agreed to:

That Private Members' Business item No. 233 outside the Order of Precedence be called on forthwith.

TILLEGRA DAM

Production of Documents: Further Order

Dr JOHN KAYE [3.53 p.m.]: I move:

1. That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution any document in the possession, custody or control of the Minister for Planning or the Department of Planning that refers to the Department of Planning's adequacy review of Hunter Water's draft environmental assessment report for the proposed Tillegra Dam, and any document which records or refers to the production of documents as a result of this order of the House.
2. That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Water, the Department of Environment, Climate Change and Water, or Hunter Water Corporation:
 - (a) any document that refers to the commissioning by the NSW Office of Water of BMT WBM to develop a model to assess the impacts of environmental flow rules and any other matters including the proposed Tillegra Dam on the Hunter River Estuary,
 - (b) any document that refers to the BMT WBM model, the need to develop it, its development, testing, calibrating or results obtained from it,
 - (c) any document referring to the use of an FVM or Finite Volume Method model to analyse impacts on the Hunter River Estuary,
 - (d) any document which records or refers to the production of documents as a result of this order of the House.
3. That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of the passing of this resolution the following documents, created since April 2008, in the possession, custody or control of Hunter Water Corporation:
 - (a) all documents relating to the need for the construction of Tillegra Dam as a water supply for the Lower Hunter or the Central Coast, the advisability of Tillegra as a supply option, and the cost and environmental impacts of Tillegra, and
 - (b) all documents relating to the H250 Plan, including public submissions as a result of consultation around the H250 Plan, and
 - (c) any document which records or refers to the production of documents as a result of this order of the House.

There are three calls for papers contained in this motion. One call relates to the Department of Planning with respect to the Environmental Assessment Report and, in particular, the adequacy review conducted by the Department of Planning of that report. It is very clear that the Environmental Assessment Report, even based on official comments made by Industry and Investment NSW, the NSW Office of Water, the Hunter Catchment Authority and the Department of Environment and Climate Change, is not adequate. Given that a decision is about to be made on that document, it is important that there be informed public debate.

A second call for papers from the Minister for Water, the Department of Environment, Climate Change and Water and the Hunter Water Corporation seeks to obtain documents in relation to a water model that was foreshadowed in the Office of Water's submission to the Environmental Assessment Report. That water model obviously will look very carefully at the impacts on the environmental flow rules and Tillegra Dam on the Hunter River estuary. This is a matter of great debate at the moment, given the comments contained in the Environmental Assessment Report and in submissions from government departments that indeed the construction of Tillegra Dam would have a devastating consequence on Hunter estuaries on the Ramsar list of wetlands and on the fishing industries in that area.

The third call for papers seeks documents in relation to the construction of Tillegra Dam and in particular the H250 Plan from the Hunter Water Corporation. The community has a right to know why there has been a sudden change from it being referred to as the second worst option to it becoming the most important option. The issues around Tillegra Dam have been debated extensively in this House for some time. I will not go through those again other than to say that the three previous calls for papers have all resulted in very important revelations about objections to Tillegra Dam by senior water bureaucrats within various government departments. I commend the motion to the House.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.56 p.m.]: Dr John Kaye brings forward yet another version of his earlier motions while the environmental assessment process is underway. As Dr John Kaye said, he moved similar motions late last year regarding further orders for papers.

Dr John Kaye: I did not say that.

The Hon. MICHAEL VEITCH: You spoke about the previous motions. The Government complied with the motions. The member's motion was, in effect, an extension of his earlier motions, seeking the same information. So we are, in essence, debating this motion again—it is a motion calling for the same information.

The PRESIDENT: Order! Dr John Kaye is reminded that interjections are disorderly at all times. He was given the courtesy of being heard in silence and he should reciprocate.

The Hon. MICHAEL VEITCH: As I said, the planning process is well underway. The Environmental Assessment Report was the subject of extensive public consultation and it ran for 60 days. It provided the public with ample opportunity to review and make submissions on the project. The proponent of the project, Hunter Water, is in the process of completing a submissions report in response to the issues raised during the public exhibition period. As the Government has stated in previous debates, there is no single solution to securing water supplies, particularly in the face of climate change and population growth. A mix of mechanisms, including demand management and water efficiencies, is required to sustain water supplies into the future.

Hunter Water actively promotes these practices. In fact, the Hunter region has a proud record in water conservation, having one of the lowest unrestricted household water consumption levels in the nation. Tillegra Dam could provide drought security against the uncertainties associated with climate change and cater for population growth in the region for at least the next 50 years. Luckily, the lower Hunter has not experienced the severe drought conditions affecting a large proportion of this country. If it had, the storages would have dropped dramatically.

Hunter Water has explored a range of supply and demand options to secure the water supply of the lower Hunter region. The supply options have included upgrading existing sources, desalination, other dam sites and indirect potable water reuse. All of the options have been considered from a social, environmental, technical feasibility and economic perspective and they are all included in the publicly available environmental assessment report. The preliminary findings from all the geotechnical investigations indicate that the site is suitable to construct a dam. There are stringent processes in place to ensure a robust peer review process relative to the site. An independent peer review panel has been established to overview the concept and design of

Tillegra Dam. The panel comprises five experts, each of whom is recognised internationally as an authority in the respective fields of geology and geotechnical engineering, dams engineering, seismology, hydrology and hydraulics.

All members of the review panel inspected the dam site. Historical data indicates that the stream flow at the Tillegra site is very favourable, benefiting from a relatively large catchment receiving reliable rainfall. The Government will not allow the Hunter to run out of water. This is a big infrastructure project that will create hundreds of jobs, improve water security and ensure that the region continues to prosper and develop. We should let the planning process run its course. The Government opposes the motion.

The Hon. LYNDIA VOLTZ [4.00 p.m.]: We have yet another call for papers from the Greens. This is another exercise that will result in wasting valuable resources and taking public servants away from their core duties—that is, planning for this State. This is not about photocopying and scheduling of countless documents. All members know about the now infamous call for papers relating to Building the Education Revolution. I will remind the House of the statistics—

The Hon. Melinda Pavey: Which we would have accepted electronically.

The Hon. Don Harwin: Point of order—

The PRESIDENT: Order! The Hon. Melinda Pavey will cease interjecting so that the Chair can hear the point of order from the Hon. Don Harwin.

The Hon. Don Harwin: The member's comments have absolutely nothing to do with the question before the House. My point of order is relevance.

The PRESIDENT: Order! I do not rule in favour of the point of order. The member with the call was talking about calls for papers, and this call in particular.

The Hon. LYNDIA VOLTZ: The statistics indicate that 336 boxes of documents were delivered to Parliament by the Department of Education and Training. The call involving the largest production of papers to that point related to the Cross City Tunnel and resulted in 300 boxes of documents being delivered by the Department of Planning. The cost involved for the Department of Education and Training alone was estimated to be \$500,000 and the manpower required was estimated to be the equivalent of one person working for two years.

The Hon. Rick Colless: What about the more than \$300 million you have just wasted?

The Hon. LYNDIA VOLTZ: What about the \$800 million spent on the airport tunnel? If members opposite want to talk about figures, I will happily remind them of the amount the Coalition Government spent.

The PRESIDENT: Order! The Hon. Rick Colless will come to order.

Dr John Kaye: Point of order: I refer to relevance. The airport tunnel has nothing to do with this call for papers.

The PRESIDENT: Order! The member with the call will continue to be generally relevant.

The Hon. LYNDIA VOLTZ: Given that the documents were required to be provided within 14 days, many staff were engaged in meeting that deadline. That does not include the time and money spent by other government departments that also had to provide documents. Members may recall that in 2008 this House did not have one but two calls for papers under section 52 for Catherine Hill Bay from Ms Sylvia Hale. Department of Planning staff spent more than 370 hours producing documents for Ms Hale at a cost of more than \$25,000 of taxpayers' money. Those two requests involved the production and photocopying of about 60 boxes of material, making the Catherine Hill Bay call for papers by far the most expensive in the department's history.

However, that record was broken less than a month ago. The department had to deal with two calls for papers on the proposed development of the former Stamford Hotel site at Double Bay and the Badgerys Creek proposal. Both calls cost the department more than \$65,000 and wasted more than 800 staff hours. The Double Bay project has already been rejected. With \$65,000, the department could have employed a planter for a whole

year. Instead, officers of the Department of Planning spent countless hours producing the documents at considerable cost to the taxpayers. I do not know about other members, but I do not like to see my taxes wasted in such a manner.

Now the Greens want to do it again with regard to Tillegra Dam. They call themselves the Greens, but they want us to waste reams of paper. I remind the Greens that the environmental assessment for Tillegra Dam was on exhibition from 10 September until 13 November 2009. That was well in excess of the 30-day period required under section 75H of the Environmental Planning and Assessment Act. The proponent is currently responding to issues raised in the public submissions. The environmental assessment for the project provides detailed information about the project and, of course, can be found on the Department of Planning website, at www.planning.nsw.gov.au. Dr Kaye can also find the proponent's preliminary assessment, the project application, the director general's requirements, the supplementary director general's requirements and referral details under the Commonwealth's Environment Protection and Biodiversity Conservation Act. It is all there and more information will be available on the department's website as the assessment progresses. Among other things, Dr Kaye has requested the paperwork relating to the making of State Environmental Planning Policy (Major Projects) 2005 (Amendment No 32).

Dr John Kaye: Point of order: The member is referring to a totally different motion. That has nothing to do with this motion. I have not requested that documentation in this motion.

The PRESIDENT: Order! That was a debating point, not a point of order.

Dr John Kaye: Point of order: I refer to relevance. The matter being raised by the member is not relevant to the motion before the House.

The Hon. Catherine Cusack: To the point of order: The member should be required to speak on the correct motion before the House. Madam President, if you are not going to require the member to be relevant to the motion, at least you should curb her speaking on a different motion and encourage her to give some attention and respect to the motion before the House.

The Hon. LYNDIA VOLTZ: To the point of order: This is again about constant calls for papers by the Greens. I am being generally relevant and have spoken about numerous other calls for papers.

Dr John Kaye: Have they given you the wrong speech?

The Hon. LYNDIA VOLTZ: No, they have not given me the wrong speech.

The Hon. Jennifer Gardiner: But they gave you a speech!

The Hon. LYNDIA VOLTZ: I am responding.

The PRESIDENT: Is the member still speaking to the point of order?

The Hon. LYNDIA VOLTZ: Yes. I am referring to the constant calls for papers made by the Greens and the amount of taxpayers' money and paper that is wasted. What I am saying is completely relevant.

The Hon. Catherine Cusack: Further to the point of order: I ask the member to indicate whether she is clear about the motion she is debating.

The Hon. LYNDIA VOLTZ: I am speaking to the motion on the Tillegra Dam.

The PRESIDENT: Order! That is not a point of order.

The Hon. Greg Donnelly: Point of order: A member is entitled to speak to a matter without being distracted or put off. The Hon. Linda Voltz is entitled to refer to a range of matters relating to calls for papers in her speech. What she is saying is within that range.

The Hon. Catherine Cusack: She is speaking to the wrong motion.

The Hon. Greg Donnelly: She is not.

The PRESIDENT: Order! I remind the Hon. Catherine Cusack that interjections are disorderly at all times. They are certainly of little assistance in terms of the conduct of this debate. The member with the call is being generally relevant. She is speaking to her reasons for opposing the motion moved by Dr John Kaye. There is no point of order.

The Hon. LYNDIA VOLTZ: This amendment to the major development SEPP declared the project to be critical infrastructure. Why was that decision made? The decision was made in recognition of its essential role for the future of the lower Hunter and the Central Coast. The Tillegra Dam proposal will secure water supply to existing and future communities in the lower Hunter and the Central Coast, not only during average rainfall conditions but also in the event of extended severe drought.

The Hon. Catherine Cusack: She is still speaking to the wrong motion.

Dr John Kaye: Yes.

The Hon. LYNDIA VOLTZ: I suggest that Dr Kaye read the motion. The lower Hunter is currently the sixth largest urban area in Australia and one of the State's major centres of economic activity. Notwithstanding the critical infrastructure declaration, the project will be subject to rigorous environmental assessment of the merits of the project, including the full and transparent community engagement.

Dr JOHN KAYE [4.09 p.m.], in reply: I thank members for addressing the matter, even if they were addressing the wrong matter. This is not the same motion, nor is it a motion in relation to the critical infrastructure declaration. It is an important motion and I commend it to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 18

Mr Brown	Mr Khan	Ms Rhiannon
Mr Cohen	Mr Lynn	Mr Smith
Mr Colless	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	
Miss Gardiner	Reverend Nile	<i>Tellers,</i>
Ms Hale	Ms Parker	Mr Ajaka
Dr Kaye	Mrs Pavey	Mr Harwin

Noes, 13

Mr Catanzariti	Mr Obeid	Mr Veitch
Ms Griffin	Mr Primrose	
Mr Hatzistergos	Mr Robertson	<i>Tellers,</i>
Mr Kelly	Ms Robertson	Mr Donnelly
Mr Moselmane	Mr Roozendaal	Ms Voltz

Pairs

Mr Clarke	Mr Della Bosca
Ms Cusack	Mr Macdonald
Mr Gallacher	Ms Sharpe
Mr Gay	Mr West
Mr Pearce	Ms Westwood

Question resolved in the affirmative.

Motion agreed to.

BUSINESS OF THE HOUSE**Order of Business**

The Hon. CHRISTINE ROBERTSON: I seek leave of the House to move a motion forthwith relating to State Emergency Service volunteers, notice of which was given this day.

Leave not granted.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders: Order of Business**

The Hon. JENNIFER GARDINER [4.08 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 223 outside the Order of Precedence, relating to a further order for papers regarding the CBD Metro Rail, be called on forthwith.

The Government has spent the last two sitting days trying to prevent this motion from being brought on. This has made the Opposition even more determined to have the papers tabled in the House. There must be a lot of information the Government does not want us to know about, but the people of New South Wales want to know what information is contained in the papers relating to the costings associated with the doomed CBD metro project.

Therefore, the Opposition calls for the tabling of correspondence relating to the compulsory acquisition of property for the development of the CBD metro; documents relating to the tender process for construction of the route and its infrastructure; documents relating to be contract to build, own and operate the metro; advice and research; cost-benefit analyses; feasibility studies; impact on existing and future public transport infrastructure projects; modelling and correspondence relating to the interrelationship between various government departments and the CBD metro project; submissions from various government departments and agencies relating to the projects; the GHD Consulting report commissioned by RailCorp, including the draft, preliminary and final reports from those consultants; and expenditure on the CBD metro generally.

The Premier has acknowledged that already \$270 million was supposedly spent up to the end of the last year. We know that about \$60 million might have to be paid to tenderers of the construction work. We also know that redundancy and termination payments may need to be paid. All in all, at least \$330 million worth of taxpayers' money has been wasted, money that could be used to redevelop the Tamworth Base Hospital or the Wagga Wagga Base Hospital.

The Hon. Melinda Pavey: Or the fourth pod of Port Macquarie.

The Hon. JENNIFER GARDINER: Or the fourth pod to the Port Macquarie Base Hospital, or to redevelop Pambula-Bega Hospital or to undertake any number of infrastructure projects such as the Pacific Highway or other hospitals throughout the State. But instead the money has gone down the drain, including \$330 million—

The PRESIDENT: Order! Opposition members will cease interjecting because it is impossible for the Chair to hear the Hon. Jennifer Gardiner.

The Hon. JENNIFER GARDINER: There is great public interest in this information being tabled in the House as soon as possible, and certainly within 14 days. We have already wasted two days in trying to have this material tabled because the Government has used various devices to try to prevent the motion coming on. There is a very clear public interest and I urge the House to support the motion.

The Hon. LYNDIA VOLTZ [4.22 p.m.]: Again this is another call for papers that is a waste of resources. The Sydney Metro Authority has nothing to hide. It has undertaken the tasks allocated to it by the Government and done so in a highly professional manner. The authority has delivered on time and within budget. Its annual report provided information—

The Hon. Don Harwin: Point of order: Madam President, no doubt if you were not in the chair you would take a similar point of order. The Hon. Lynda Voltz is speaking to the substantive motion, not to whether we should suspend standing orders to have the debate.

The PRESIDENT: Order! I remind members that in this stage of the debate the House is only considering whether the matter is more urgent than other item on the *Notice Paper*.

The Hon. LYNDIA VOLTZ: The matter is not urgent and is a waste of resources. There are many other motions on the *Notice Paper* before this matter and this motion will only reveal that the Sydney Metro Authority has undertaken the tasks required of it by the Government. The motion is not urgent. The authority has been clear and transparent with the community and the media in all its dealings. The matter is not urgent and should not be heard before other motions on the *Notice Paper*.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [4.24 p.m.]: This matter is not urgent. I have been waiting a number of months for the Hon. John Ajaka to move his motion on walking safely to school. His motion has been on the *Notice Paper* since 22 May 2009. The Hon. John Ajaka has put considerable time into the preparation of his motion. There is no way that the motion of the Hon. Jennifer Gardiner is more important than that of the Hon. John Ajaka. He has brought his speech down to the Chamber and it is very lengthy indeed. He is so keen to speak he is frothing at the mouth because finally he has a decent-sized audience to listen to him. There is no way that this motion is more important than his motion. In addition, Private Members' Business item No. 5 inside the Order of Business is mine and has been on the *Notice Paper* since 21 October 2008. I have been waiting longer than the Hon. John Ajaka and I want my matter heard also. I am aghast that the Hon. Jennifer Gardiner wants to jump over country shows. The Hon. Rick Colless wants to talk about rural shows. He has been talking to me for two years about them. There is no way that this motion is more urgent than my motion on country shows or the motion of the Hon. John Ajaka. I cannot believe that the Hon. Jennifer Gardiner wants to defer consideration of those matters. The Hon. John Ajaka has been sweating on his matter being called on and I have been waiting all day. This matter is not urgent.

The PRESIDENT: Order! It is not appropriate to clap in the Chamber.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

Mr Ajaka	Dr Kaye	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Cohen	Mr Lynn	Ms Rhiannon
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Reverend Nile	Mr Colless
Ms Hale	Ms Parker	Mr Harwin

Noes, 13

Mr Catanzariti	Mr Obeid	Mr Veitch
Ms Griffin	Mr Primrose	
Mr Hatzistergos	Mr Robertson	<i>Tellers,</i>
Mr Kelly	Ms Robertson	Mr Donnelly
Mr Moselmane	Mr Roozendaal	Ms Voltz

Pairs

Mr Clarke	Mr Della Bosca
Ms Cusack	Mr Macdonald
Mr Gallacher	Ms Sharpe
Mr Gay	Mr West
Mr Mason-Cox	Ms Westwood

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by the Hon. Jennifer Gardiner agreed to:

That Private Members' Business item No. 223 outside the Order of Precedence be called on forthwith.

CBD METRO**Production of Documents: Order**

The Hon. JENNIFER GARDINER [4.34 p.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents, including draft documents, relating to the CBD Metro, as announced by former Premier Nathan Rees on 24 October 2008, in the possession, custody or control of the Treasurer, NSW Treasury, the Premier, the Department of Premier and Cabinet, the Minister for Transport, the Department of Transport and Infrastructure, the Minister for Planning, the Department of Planning, the Sydney Metro, RailCorp, the Roads and Traffic Authority or the Department of Services, Technology and Administration:

- (a) all correspondence regarding the purchase or compulsory acquisition of property for the development of the CBD Metro;
- (b) all documents relating to the tender process for the construction of the route infrastructure;
- (c) all documents relating to the contract to build, own and operate the CBD Metro;
- (d) all documents relating to the decision to proceed with the CBD Metro including advice and research, cost benefit analyses, feasibility studies, the impact on existing and future public transport infrastructure projects, and patronage modelling by STM Modelling and Vetch Lister Consulting;
- (e) all correspondence relating to the CBD Metro between the relevant government agencies and departments and their respective Ministers;
- (f) all submissions from government agencies and departments regarding the CBD Metro project;
- (g) the GHD Report commissioned by RailCorp including all drafts, preliminary and final reports;
- (h) any document which records or refers to the expenditure on the CBD Metro project, including any breakdown of, or itemised costs associated with, the project to date, outstanding financial commitments and forward estimates of compensation payments or claims; and
- (i) any document which records or refers to the production of documents as a result of this order of the House.

I thank honourable members for their support thus far, and I urge them to support the motion.

The Hon. KAYEE GRIFFIN [4.34 p.m.]: Here we go again—another ridiculous call for papers, this time from The Nationals. Another call for papers, another exercise of wasting valuable resources, taking public servants away from their core duties, which is actually planning and assessing projects for the people of New South Wales. We have all seen evidence that calls for papers are a wasteful diversion of public resources. Calls for papers cost the Government hundreds of thousands of dollars: officers spend countless hours producing documents at a considerable cost to the taxpayer.

The Government has listened to the community. It has stopped the planning and development of the CBD Metro. It has decided to allocate valuable resources and funding to a range of other transport projects and services. There is no need for an urgent call for papers, and it cannot be justified to the public why these valuable resources should be further allocated to this purpose. The Department of Planning has progressed the assessment of the project in consultation with transport and environmental agencies, and through a comprehensive and transparent community consultation process.

Whilst the assessment has now been halted, The Nationals are reminded that significant documentation is available on the Department of Planning's website, www.planning.nsw.gov.au. This includes the environmental assessment for the project, which includes detailed information about the project. Also available on the department's website are the proponent's preliminary assessment, the project application, the director general's requirements, and the proponent's response to submissions. The Nationals should also listen to the community and support the Metropolitan Transport Plan, which reallocates spending to projects where they are needed now and into the future. It is a plan that responds to the needs of Sydney's cities—Parramatta, Liverpool and Penrith—and the growing north-west.

The Metropolitan Transport Plan is a plan of action—action on services, action on infrastructure, a plan for all of Sydney, a plan with a 10-year funding guarantee. It is not a plan about the past but a plan for now and the future. The Government is still committed to servicing the central business district and Barangaroo, with a \$500 million expansion of the light rail system, more than doubling the distance of the existing route to a total

length of 16.9 kilometres and up to 20 new stations. The Metropolitan Transport Plan is also about the future—about a sustainable future: a well-planned and efficient city, a city with reduced social, environmental and economic costs.

The Government will continue to plan for future mass transit, including enhanced rail capacity through the central business district and across the harbour. This is what we should focus on: the future and making it happen. The Government also recognises that significant resources and effort have been put into the process by tenderers for the major construction contracts, and will ensure that they are dealt with fairly and properly. There is no need to expend further and unnecessary resources on this project. The Government will act swiftly and fairly to reimburse the reasonable costs incurred in major construction contracts affected by this decision. It is likely that some details of commercial contracts will be commercial in confidence. The Government will also put processes in place to assist property owners and tenants who have incurred legal, valuation and other costs relating to property acquisition in those cases where they have not received compensation because the acquisition of their properties was not completed.

Utilising resources in an order for papers on the CBD Metro is counterproductive. The Government has made a tough decision to stop work on the CBD Metro and to allocate these resources in the funding of significant projects identified in the Metropolitan Transport Plan. The Department of Planning has undertaken a vigorous assessment process for the CBD Metro—a publicly transparent process, but with the decision to stop work on the CBD Metro. I see no relevance to this call for papers. It is a waste of time, money and resources.

The Hon. TONY CATANZARITI [4.39 p.m.]: This is another exercise of wasting valuable resources, of photocopying and compiling, and of taking public servants away from their core duties, which are actually planning and assessing projects for the State. The Government has listened to the community. It has stopped the planning and development of the CBD Metro. It has decided to allocate valuable resources and funding to a range of other transport projects and services.

The Department of Planning progressed the assessment of the CBD Metro project in consultation with transport and environmental agencies and through a comprehensive and transparent community consultation process. This was a rigorous professional exercise by departmental officers, and whilst the assessment has now been halted The Nationals are reminded that significant documentation is available on the department's website at www.planning.nsw.gov.au. That documentation includes the environmental assessment and supporting technical papers for the project containing detailed information about the project. Also available on the department's website is the critical infrastructure declaration, the major project declaration, the proponent's preliminary assessment, the project application, the Director General's requirements and the proponent's response to submissions.

Those documents were all prepared under the major project assessment system; a system that was introduced to deal with the complexity of major projects such as the CBD Metro. The major project assessment process engages the community by improving consultation and transparency, ensures key environmental and planning issues are publicly identified and addressed early in the assessment process, provides a focused assessment system for projects of regional and state significance, and focuses on achieving a sustainable outcome rather than simply relying on bureaucratic red tape. The Department of Planning has followed the steps set out by the major project assessment system to provide a transparent assessment process for the CBD Metro and, as I have said, the key documents considered in the assessment process are available on the department's website.

For the benefit of the Hon. Jennifer Gardiner—who is not present in the Chamber—I will outline the vigorous process followed by the Department of Planning. During preparation of the environmental assessment document for the CBD Metro the proponent was encouraged to consult the community, councils and agencies. The department promoted ongoing liaison with government agencies to ensure that key environmental and planning issues were identified and comprehensively addressed. Prior to the exhibition of the environmental assessment the Department of Planning, in consultation with key agencies, rigorously revised the environmental assessment to ensure that it adequately addressed the director general's environmental assessment requirements—which are available on the department's website.

The environmental assessment, including all technical papers, was made available on the department's website and at numerous community-based locations during the exhibition period. State agencies, local members and local councils were notified directly of the exhibition and invited to make comment. The environmental assessment for the project was publicly exhibited from 9 September 2009 to 12 October 2009.

The department also received submissions two weeks after the closure of the exhibition period. During this period 2,539 submissions were received. It is a common myth that the major projects assessment system reduces community consultation and transparency. In fact, it increases community consultation and transparency by making a wide range of documents available.

Copies of all submissions were provided to the proponent and relevant public authorities to allow the proponent to prepare a response to the issues raised in the submissions and to amend the project to reduce its impact. The Sydney Metro Authority responded to community concerns and revised the project to lessen heritage impacts at Union Square, Pyrmont, and to improve pedestrian connections to Barangaroo—also available on the department's website. The department has followed this exhaustive process in line with the major project assessment system, which has been fully transparent and included community engagement.

The information the Hon. Jennifer Gardiner now seeks is essentially already in the public domain, as the key documents are already publicly available. Why waste more valuable resources? Why waste the time of public servants once again? I question the urgency of this call for papers since the CBD Metro project has been cancelled and the New South Wales Government has moved on to alternative transport priorities. The Department of Planning has undertaken a vigorous assessment process for the CBD Metro, a publicly transparent process, but with the decision to stop work on the CBD Metro I see no relevance to this call for papers. It is nothing but a waste of time, money and resources.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [4.45 p.m.]: Anyone would think the Coalition had supported the CBD Metro when it was proposed. I have been thinking back through what happened last year and I cannot recall an occasion when the Opposition supported it. The Coalition is putting on a show for the large crowd in the gallery—who have come to hear the first speech of the Hon. Shaoquett Moselmane—trying to convince people that they work in this place. The call for papers by the Hon. Jennifer Gardiner is directed at the following people and departments: former Premier Nathan Rees, the Treasurer, New South Wales Treasury, the Premier, the Department of Premier and Cabinet, the Minister for Transport, the Department of Transport and Infrastructure, the Minister for Planning, the Department of Planning, the Sydney Metro, RailCorp, the Roads and Traffic Authority and the Department of Services, Technology and Administration. It would seem that the only people not roped into this process are the 300-odd people seated in the gallery. The Hon. Jennifer Gardiner has moved this motion with all good intentions. However, I should have thought the CBD Metro would have been of little more relevance to someone in the Liberal Party, but that is not the case.

The Hon. Trevor Khan: Sorry, where are you from? Young?

The Hon. MICHAEL VEITCH: I am glad the Hon. Trevor Khan mentioned Young because someone could suggest—

The Hon. Trevor Khan: I thought you would be more worried about the abattoir than this.

The Hon. MICHAEL VEITCH: I am glad also that he mentioned the abattoir. Anyone would think that country people do not travel to Sydney and use transport. The Hon. Trevor Khan knows that is not the case. People from Young do come to Sydney and they do use transport. As I said, it seems that the only people not mentioned in this motion are those in the gallery. The motion is all encompassing as it refers to "all correspondence regarding the purchase or compulsory acquisition of property". Then the bureaucrats are given just 14 days to produce the documents. I suggest that such a detailed call for papers is onerous and would require a response time of longer than 14 days. I had hoped that we learnt some lessons from the call for papers relating to the Building the Education Revolution, which resulted in about 15 truckloads of papers being delivered to the Parliament for which space had to be found to store them. But that is another issue.

A period of 14 days is too onerous a requirement to place on a range of government departments and bureaucrats. It is unfair of the Coalition to seek to set such a time frame. I am certain that all members are cognisant of the workload of our New South Wales public servants. I ask all members of this House not to support this call for papers; it is not warranted.

The Hon. GREG DONNELLY [4.49 p.m.]: I oppose the motion. Although previous speakers have made this fundamental point, it is worth repeating. Essentially this is a gigantic fishing expedition. I concur with the Hon. Michael Veitch's comments about the range of individuals, organisations and government bureaucracy

that is being called upon to meet the demands of this call for papers. The Hon. Jennifer Gardiner has framed this motion in the broadest possible way. It calls for the production of documents in 14 days, including "draft documents". No clear definition is given of the term "draft documents". What is a "draft document"?

The Hon. Jennifer Gardiner: It is a draft.

The Hon. GREG DONNELLY: Is it a preliminary draft, a first draft or a second draft? The use of the words "draft documents" is ambiguous. The motion calls for documents "relating to the CBD Metro, as announced by former Premier Nathan Rees on 24 October 2008, in the possession, custody or control of the Treasurer, NSW Treasury, the Premier, the Department of Premier and Cabinet, the Minister for Transport, the Department of Transport and Infrastructure, the Minister for Planning, the Department of Planning, the Sydney Metro, RailCorp, the Roads and Traffic Authority or the Department of Services, Technology and Administration" and it goes on. It is nothing more than a fishing expedition. We are used to that from the Opposition. Opposition members would be well aware of the costs associated with such a call for papers but they do not seem to care. I strongly urge the House to oppose the motion.

The Hon. LYNDA VOLTZ [4.52 p.m.]: I speak in opposition to the motion. The New South Wales Government is trying to demobilise the CBD Metro as efficiently as possible. The resources required to respond to this motion are immense. Opposition members do not seem to appreciate the impact it will have on staff and resources. This exercise will involve hundreds if not thousands of working hours. I know that Opposition members such as the Hon. John Ajaka support our plan to demobilise the CBD Metro and get on with the job of putting the Metropolitan Transport Plan in place. The Hon. John Ajaka would not like us to waste the valuable working hours of public servants, who need to get on with the job of the Metropolitan Transport Plan. This exercise will take up an enormous amount of financial resources. I support the comments made by the Hon. Michael Veitch and the Hon. Greg Donnelly. In the spirit of compromise, on behalf of the Government I move:

That the question be amended by omitting "14 days" and inserting instead "35 days".

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

Amendment agreed to.

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

Motion as amended agreed to.

GAS SUPPLY AMENDMENT BILL 2010

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

Motion by the Hon. John Hatzistergos agreed to:

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

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Don Harwin agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 3 in the Order of Precedence be called on forthwith.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Member's Business No. 3 in the Order of Precedence be called on forthwith.

WALK SAFELY TO SCHOOL DAY

The Hon. JOHN AJAKA [4.57 p.m.]: I seek leave to amend Private Member's Business item No. 3 in the Order of Precedence by omitting all words after "House" and inserting instead:

- (a) notes that "Walk Safely to School Day" was on Friday 15 May 2009,
- (b) notes that certain schools in the Rockdale electorate, marked as priorities by the Rockdale City Council Traffic and Road Safety Coordinator, do not have flashing light school zones, and
- (c) calls on the Labor Government to install flashing lights at all priority schools zones as soon as possible.

Leave granted.

Accordingly, I move:

That this House:

- (a) notes that "Walk Safely to School Day" was on Friday 15 May 2009,
- (b) notes that certain schools in the Rockdale electorate, marked as priorities by the Rockdale City Council Traffic and Road Safety Coordinator, do not have flashing light school zones, and
- (c) calls on the Labor Government to install flashing lights at all priority schools zones as soon as possible.

I move this motion first and foremost with the parents and children in my duty electorate in mind and seek to focus my discussions on two fundamental concerns that have been raised with me on numerous occasions: first, fostering safe pedestrian behaviour in our children is an initiative we should work at more than just once annually; and, secondly, acknowledging that it is incumbent upon all of us to do all we can to keep our children safe and prevent unnecessary tragedies.

Strangely, although not surprisingly, this is not at all reflected in the Government's better-late-than-never attitude to the issue of school zone hazard detection and risk minimisation. For instance, there are a number of schools in the Rockdale electorate that have been marked as priority high risk school zones yet have not had flashing lights installed. These schools include Athelstone Public School, Brighton-Le-Sands Public School, Rockdale Public School, Ramsgate Public School and St Francis Xavier's Primary School.

Furthermore, amongst the priority schools that have had flashing lights installed there are certain instances where the lights have been installed on a surrounding street other than that which was recommended by Rockdale council. For instance, flashing lights have been installed on Forest Road near St Marys Star of the Sea Primary School, contrary to Rockdale council's recommendation that they be placed on Croydon Road. The road safety concerns of the Rockdale electorate are illustrative of the broader road safety issues. Broadly, there is overwhelming evidence supporting the need for a more expedient and widespread rollout of flashing lights for school zones.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

Item of business set down as an order of the day for a future day.

SPECIAL ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.00 p.m.]: I move:

That this House at its rising today do adjourn until Tuesday 9 March 2010 at 2.30 p.m.

The PRESIDENT: I remind members that the Hon. Shaoquett Moselmane is about to make his inaugural speech. I ask members to respect the tradition in this Chamber of extending to the member the courtesy of being heard in silence.

The Hon. SHAOQUETT MOSELMANE [5.01 p.m.] (Inaugural Speech): With the indulgence of honourable members I rise to deliver my inaugural speech, and in doing so, I pay tribute to the traditional owners of this land, the Gadigal people of the Eora nation, particularly the elders, past and present. I wish to acknowledge the presence of my family, who continue to be my foundation and whose support strengthens my resolve to achieve every single day. Also in the public gallery are many distinguished friends who have come to lend their support. Thank you, one and all.

It is a great honour and a privilege to stand here in this historic place representing the Australian Labor Party—a Labor Party that represents a history of commitment to giving all Australians a fair go regardless of race, colour or religion. I am deeply conscious of this responsibility, and I am aware of the community and media interest that I have attained as the first Australian of Arabic-Lebanese-Muslim heritage to enter Australia's oldest Parliament. My entry into this House is proof to the world that we are an inclusive society, a democratic, pluralistic, secular society, open to all, irrespective of creed, race, or colour. I am proud of my heritage, proud of my family and proud of who I am. I am first and foremost an Australian, and like all members here, I will always put Australia first.

Today I intend to give a glimpse of my personal story, a sketch of my values and motivations, and some of my interests on matters of politics and community. So first, the glimpse about myself. I was born in southern Lebanon in 1965 in a village of Konin. It was in Beirut where my father later worked and earned a living, and he worked tirelessly to secure our future. My mother, on the other hand, was the guiding force, caring for 11 children. She did it with love and dedication. With the ever-present threat of war in the south and in the thick of Lebanon's most ferocious civil war, it was inevitable that my parents would make the decision to pack our bags and leave our home for Australia.

We arrived at Sydney airport on 25 May 1977 and made Rockdale our home. At an early stage I developed an interest in politics and an interest in matters of social justice. In Sydney I attended many political rallies and community events and through my engagements I became actively involved in community affairs. To many people in need I was the interpreter, the youth worker or the social worker, and I was the education officer and community liaison officer. Even at the tender age of 13, I would accompany people to their place of destination and help them in their need. Many people at the time needed assistance.

It was inevitable that, at the age of 17, I would join the Australian Labor Party. It was inevitable because it was a party that I believed in because it was about justice and humanity. I was proud when the Premier of New South Wales the Hon. Barrie Unsworth after his 1986 narrow by-election win in Rockdale praised the Mouslimani family for his victory. He won the seat by 56 votes. While my father and older brothers worked I was given the opportunity to seek an education.

I attended Rockdale Public School for a year and then went on to James Cook Boys High, then on to tertiary studies where I attained a degree in Government and Public Administration from Sydney University, then a Masters degree in Politics from Macquarie University and, finally, a degree in law from the University of New South Wales. I am proud that I was formally introduced into the Supreme Court of New South Wales as a practicing solicitor by the Hon. Robert McClelland, the then shadow Attorney General and Attorney General today.

During my years of tertiary education, however, I was engaged in a variety of community issues. In 1986 I was chosen by my community, and with the assistance of the Australian Government, to travel to Lebanon to help with Lebanese migration applications and I then assisted the Australian Embassy in Syria as they processed the applications. Many applicants were successful and one of those was Mr Ali Hammoud, an engineer. In 1997 he and his wife, Manel Issa, opened their first beauty salon. Today they have 24 salons employing over 260 people. I am proud to say that they recently won the prestigious 2009 National Award for Initiative.

In 1995 I was elected councillor to Rockdale City Council and in 1997 I joined the Australian Republican Movement and was selected as a candidate on the ballot paper for the Constitutional Convention Elections. I was also a student activist when the government of the day failed to listen. I still believe that free access to education is a matter of responsible government. I was elected as a student representative to the faculty of Law at the University of New South Wales and there I continued to advocate for the protection of student rights.

My childhood memories, however, were of conflict and hardship. Peace in Lebanon was a rarity. I do not as a child recall experiencing extended periods of peace and security. Successive Israeli Arab wars,

combined with the Lebanese civil war, continued for many years. A tooth for a tooth and an eye for an eye will see no end to the continuing death and destruction. One of our greatest twentieth-century icons was a man who espoused the wisdom of peace, Mahatma Gandhi. He rightly said:

An eye for an eye will leave the whole world blind.

Never a truer word spoken, and world leaders are blinded by this continuing cycle of vengeance. There has been over 60 years of Israeli-Arab conflict with no end in sight. They must now open their eyes to see peace as the only way forward and a solution to a Palestinian statehood must be found.

Madam President, like you and like honourable members, I will not shy away from stating my hopes and beliefs. I hope for and believe in peace, and I believe that the people of Palestine have a right to a State of their own. United Nations resolutions on Palestine must be adhered to and implemented, an independent State of Palestine created and the Palestinian diaspora be given the right of return. I believe that the two-state solution can be the basis of a durable and just peace and peaceful co-existence between the two peoples. As a signatory to the United Nations Universal Declaration of Human Rights, we must practise what we preach. In 2008, Australia and the rest of the world celebrated the sixtieth anniversary of the Universal Declaration of Human Rights with the campaign slogan, "Dignity and justice for all of us".

Noble it is to uphold the principles of dignity and justice for all and, indeed, to deliver on the rights of our indigenous people. Let us lead the way in justice and human rights for our indigenous people. Let us show the world that we do indeed practise what we preach and give our original inhabitants what they deserve. It is in the area of Aboriginal rights that I believe we can and must do more. Australia has made significant inroads in addressing Aboriginal rights. Our national governments, and in particular our Labor governments, have led the way in this area of human rights. They have introduced the Commonwealth Land Rights Act, increased investment in Aboriginal housing, health and education and set the path towards reconciliation with our indigenous population. Our national governments have also promoted the cause of Aboriginal rights and recognised native title through the historic Mabo legislation. New South Wales introduced a mandatory Aboriginal education policy and was the first State to apologise for the horrendous policy of forcibly removing Aboriginal children from their families.

In my view, issues of national and international importance such as this should transcend party politics. New South Wales can in a bipartisan way lead the nation in Aboriginal social justice and legislate to dedicate parliamentary seats in this House to the indigenous Aboriginal community. New Zealand, Finland, the US State of Maine and Canada have found ways to give their indigenous people parliamentary representation and have proved effective in improving indigenous representation. I believe we, too, can give our indigenous people parliamentary representation. We should empower our Aboriginal Australians and give them the platform they need to articulate their concerns and to define their rights. It is time that we recognised their fundamental rights and gave them the dignified existence that they deserve.

I am a strong believer in the trade union movement. After all, it was the trade unionists that formed and launched our great party to represent the poor and the workers. The trade unions were behind much of Labor's agenda for social reform and it was the trade union movement that led the fight, protecting the weak and fighting for the rights of working people. So, it is the trade unions that I believe in and support. For more than a century our people, our party and our union leaders fought hard and through many struggles gained the workers' rights that we enjoy today. The Howard Government WorkChoices legislation sought to destroy a century of rights and gains for the working people of this State. For the Australian Labor Party and, in particular, unions in Australia, the WorkChoices Act became a key battleground. After the 2007 election, Australia's workers saw the end of that dreaded legislation. It was truly a historical achievement and a powerful example of people power. Once again, it was the work of unionists, through the Your Rights at Work campaign, that restored economic and social justice for workers. In Ben Chifley's vision, the Light on the Hill continues to shine. Thanks to the Labor movement, the WorkChoices Act has been repealed and today the Rudd Labor Government has a much fairer and more equitable industrial relations system for all Australians. For that, we can commend our union movement.

I would like to touch on a very topical issue in our society today, that is, the issue of race and racism. We live in a pluralistic and democratic society in which the rights of all are enshrined in our laws, our customs and our Constitution. However, on occasion racism continues to rear its ugly head. Some of our past immigrants have borne the brunt of it. Unfortunately, our Australian Indian community is bearing the brunt of it today. We have a duty to condemn racism and we can fight it through education and the rule of law. Through our education system we can drive the message home that racism is ignorance and a crime.

Migration continues to bring with it creativity and ingenuity, drive and hard work, talent and aspiration. We can seize upon and employ such talent and creativity for the betterment of our nation. Just imagine the trade opportunities that our Australian Indian community can generate for the people of New South Wales. In 2000, the New South Wales Government established the NSW-Asia Business Council because it recognised the potential of the Asian Australian community in developing and fostering New South Wales trade links with China and the rest of Asia. I believe that we as a government should also now investigate the establishment of a New South Wales-India trade council and a New South Wales-Arab trade council. I believe that the people of New South Wales have an opportunity to gain from trade with the growing markets of India and the Arab world. We have an untapped resource in our Australian Arab communities. They are entrepreneurial, they have drive and initiative and they have a wealth of knowledge of business both here and overseas. I believe that a New South Wales-based Arab trade council established and funded by the New South Wales Government will actively network local and overseas markets. It will promote business with New South Wales, encourage New South Wales exporters and promote investment opportunities in New South Wales.

One of my motivations for entering public life is to help those in need. Today our youth need our help and deserve a fair go. Some of our young are disillusioned and feel neglected and have low self-esteem. It is incumbent upon us to do more for our youth and to devote more government resources to meet their needs. We must help keep our young engaged in body and in mind. It is in this vein that I make a special mention of one of Australia's cherished youth leaders, Father Chris Riley. His Youth Off The Streets foundation is nothing short of exceptional. He has my deepest respect because of his hands-on approach to helping our young people to achieve their best. Let us invest in our youth by extending a helping hand to them to get ahead.

Like former member the Hon. Henry Tsang, I come from a background of first serving my community in local government. In 1995, I was first elected to represent the residents of Rockdale on Rockdale City Council. My council colleagues then elected me to serve a number of times as deputy mayor and four times as mayor. I place on record my gratitude to all the councillors with whom I have worked. In particular I thank the Labor councillors who have dedicated their time and continue to give the community their heart and soul. I wish to recognise them all and to thank the Mayor, Councillor Bill Saravinovski, Councillor Angelo Anestis, Councillor Joe Awada, Councillor Shane O'Brien and other colleagues, Councillor Elizabeth Barrow and Councillor Jan Brennan, for their friendship and support.

I believe that I achieved a great deal as a local government representative. However, my proudest achievement was to be diligent and to respond to all who sought my assistance. I enjoy serving and will continue to serve the community that I grew up in and love. Many members who have a background of serving in local government know that today's local government is no longer about the three Rs—roads, rates and rubbish. Today, the community wants more, demands more and expects more. Many of the mayors and councillors who have joined us here tonight will testify that councils today have far fewer resources at their disposal and those resources are dwindling more and more as time goes by. Today, local government faces the added pressure of climate change and the resources needed to address it are limited. Some local councils are surviving, but only just. The reality is that in the not too distant future many councils may no longer be viable or capable of meeting modern day community needs and challenges. I therefore believe that it is time for us in a bipartisan way to embrace a council amalgamation reform agenda in the best interests of our citizens.

I have now come to the end of my speech but with your indulgence and the indulgence of honourable members, I would like to take a few moments more to thank a few people, as I am keen to place on record my enormous gratitude to the many people who have stood by me, many of whom are here tonight. First and foremost, I pay tribute to the Hon. Henry Tsang, whose seat in this Chamber I now fill. He has served the people of New South Wales with sincerity and has built significant bridges between our Australian and Asian communities—in particular with the Australian Chinese community which I now have the honour of serving. I thank him for his presence with us here today and wish him and the Australian Chinese community and everyone here tonight, Kung Hei Fat Choy—that is Happy New Year in Chinese.

I am particularly indebted to the General Secretary of the New South Wales ALP, Mathew Thistlethwaite, for his support and endorsement of my candidature. I thank him and wish him well in all his future endeavours. I look forward to working with the Assistant General Secretary, Mr Sam Dastyari, as well as with Brendan Cavanaugh, Courtney Roache and all of my friends in the New South Wales branch of the Labor Party. I express my gratitude to my friends Senator Mark Arbib and the National Secretary of the Australian Labor Party, Karl Bittar, the Hon. Edward Obeid and the Hon. Joseph Tripodi for their friendship and support over the past two decades.

I also thank the Hon. Tony Kelly, the Hon. Greg Donnelly, the Hon. Tony Catanzariti, the Hon. John Hatzistergos, the Hon. Linda Voltz, the Hon. Eric Roozendaal, the Hon. Kayee Griffin, the Hon. Ian West, the Hon. Mick Veitch, the Hon. John Robertson, the Hon. Penny Sharpe and the Hon. Christine Robertson, as well as the Hon. John Ajaka and the Hon. Marie Ficarra, for their guidance. I also thank you, Madam President, and look forward to working with you and each and every one in the New South Wales Parliament. I acknowledge the Premier, Kristina Keneally—welcome. I am proud that I enter a New South Wales Parliament that has its first female Premier, its first female Deputy Premier and its first female Deputy-President. I am honoured to be part of the New South Wales State revolution.

I thank all the distinguished foreign dignitaries who have come to lend their support today. I acknowledge his Excellency Mr Tammam Sulaiman, Ambassador of the Syrian Arab Republic in Australia; Mr Tarek Abousenn, Consul General of the Arab Republic of Egypt in Sydney; Mr Terry Mullane, Consul General of Morocco; Mr Aleksandar Besarabic, Consul General of the Republic of Serbia; Consul Peng Douyi and Consul Fu Aiming, representatives of His Excellency Hu Shan, Consul General of the Consulate General of the People's Republic of China in Sydney; and Mr Bassam Chehade, representing the Consul General of Lebanon.

I thank Mr Russ Collison, Mr Andrew Ferguson, Mr Nick Lewocki, the Hon. Graham Richardson, the Hon. Leo McLeay and the Hon. Bill Morrison for their support and guidance. I thank all Centre Unity members for their unanimous endorsement of my candidature and my election unopposed. I thank all my friends and supporters and members of the Labor Party in Rockdale and elsewhere, many of whom are here tonight. They are numerous and extraordinary. They are the people who are loyal and kind and who are always there for me, eager to contribute and make a difference. I thank them all. As I thank the party members in Rockdale, I look forward to working with the community and party members of my duty electorate of North Shore. I wish long-time friends Mr Terry Diamantis, the Hon. Doug McClelland and Mr George Thompson well, and I express my sadness at the passing of a dear friend, Dr Khalil Moustapha. He was a tireless and dedicated community leader.

All members of this House know that to be truly successful in public life one needs a loving and supporting family. I am truly blessed in that regard. I place on record the enormous contribution my family has made to all my endeavours in life. I pay tribute to my Mum, Mrs Jawaher Mohanna Mouslimani, who sadly could not be with us today due to her chronic illness. I also pay tribute to my Dad, Mr Chaheer Mouslimani, and all my brothers and sisters, who are all present in the gallery today. I thank them for their guidance and support and for the values they have instilled in me.

I acknowledge and thank my own family—my beautiful loving wife, Mika Fukuta Moselmane—and my father-in-law, Mr Eiichi Fukuta, for his support and for his kindness to us but, in particular, for his love and affection to my son Joseph, who is now 5½ years old. Joseph is over there in the gallery. Joseph has become my Japanese interpreter. He jumps in and translates for me when my father-in-law is trying to tell me something I do not understand. I love him dearly. He is highly intelligent and inquisitive, and he usually gets his way. I thank you, Madam President, and all honourable members for the warm welcome that has been extended to me. My appreciation goes to the Clerk of the Parliaments and all staff members for the courtesy, cooperation and assistance that has been given to me since my entry into Parliament. I thank you for your indulgence.

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

Motion agreed to.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Planning, Minister for Infrastructure, and Minister for Lands) [5.30 p.m.]: I move:

That this House do now adjourn.

FEDERAL EDUCATION AGENDA

Dr JOHN KAYE [5.30 p.m.]: I congratulate the Hon. Shaoquett Moselmane on his inaugural speech. I hope it is one of many. Much of Julia Gillard's so-called education revolution, which should really be called a

counterrevolution, comes from the United States of America and largely from the New York school district, out of the mind of its Chancellor, Joel Klein. Therefore, it is very important that here in Australia we understand the consequences of the agenda being run by the New York school district and by Joel Klein.

Just yesterday the Federal Minister for Education announced the idea of an identity number for students. Education unions and experts, teachers and parents were not consulted about that concept. It is being imposed from above, without consultation with the States. There has been no public discussion of the privacy implications or of the potential to stigmatise students, who might never escape from an initial bad start to their educational career. There has been no public discussion about the impacts on the future careers of individual students or the costs involved.

This is just one example of the agenda that Julia Gillard is imposing on the Australian education system and the way in which she is importing ideas from the United States of America and forcing them on public school systems around Australia. It would appear that State education Ministers are either unwilling or unable to withstand the onslaught. Therefore, it is important that we understand the agenda. Dressed up in the language of social justice, the model is deeply anti-teacher. It is focused on markets and on measurement; obsessed by the idea that all education can be reduced to a simple number, being pushed by academics such as Stanford University Professor Eric A. Hanushek.

It is time that the State stood up to this agenda and restored the balance in favour of students and teachers. It is important to understand some of the worst aspects created by this agenda. I draw attention to what is happening in the United States, particularly in the State of Georgia, where equivalent high-stakes testing has been imposed under the Federal government's "No child left behind" legislation. One of the largest school cheating scandals ever in the United States is now under investigation in the State of Georgia. Last week both the *New York Times* and the *Atlanta Journal-Constitution* reported that one in five of Georgia's public elementary and middle schools are under investigation for changing students' answers on tests. The Georgia State Board of Education ordered investigations at 191 schools across the State where evidence has been found that tampering on test sheets for the State standardised achievement tests. Another 178 schools will have stepped up monitoring during testing.

Analysis by the Georgia Governor's Office of student achievement shows that more than half of elementary and middle schools in that State had at least one classroom where erasure marks were so unusual that cheating had occurred. The scandal is the latest in a series of cheating scandals across the United States since the "No child left behind" legislation came into force. If schools fail to meet Federal education benchmarks under that legislation they are placed in the needs-improvement category, students must be offered extra tutoring and parents must be allowed to transfer their children to higher-performing schools. This legislation, like its Australian counterpart, places principals and teachers under intense pressure to improve school test scores. Many believe they must cheat to survive. High personal stakes also involve teachers and principals, as they fear their careers may suffer as a result of the failure to improve test scores.

Teachers are not the only ones being accused of manipulating high-stakes test scores in the United States. The pin-up boy of testing, Joel Klein himself, has been in trouble. The *New York Times* article in December 2009 pointed out that while the New York School Chancellor has been touting improved outcomes for the school district, he had relied on the State exams, which show substantial improvements over the years 2003 to 2009. However, when the gold standard national exams are used to compare performance, year-to-year, for New York school city kids, there is little or no improvement and year 8 students'—or the 8th graders as they are called in the United States—results are flatlining against national scores. At best, Joel Klein is relying on lower standard State scores. At worst there has been substantial manipulation of the State test to satisfy an agenda promoted in order to name and shame. Julia Gillard has created more misery for disadvantaged schools. Teachers and school leaders who are doing the right thing will be forced to watch their reputations being trashed while the minority schools that alter their student results will reap rewards from Julia Gillard's dishonesty. [*Time expired.*]

TAMWORTH REGIONAL COUNCIL A. R. BLUETT MEMORIAL AWARD

The Hon. CHRISTINE ROBERTSON [5.35 p.m.]: The last words I said in this place last year were, "I am sure all of us here wish it would just rain, and rain properly". Everyone in northern New South Wales feels really great, not because I said it, but because it happened. To give the House some additional information, my property received nine inches of rain over Christmas and we now have water storage for at least two years. It is a very nice feeling. Of course, I would have talked about this earlier but some members perceived it to be more useful to talk about the Sydney metropolitan transport system.

I take this opportunity to speak of the good work undertaken by Tamworth Regional Council as the deserved recipient of the prestigious A. R. Bluett Memorial Award last October. Tamworth is a well-represented electorate in New South Wales, with a local member, me and another member amongst the State parliamentary representatives as residents. That is why I was so surprised that I was the only State politician present on the evening of 9 December 2009 for the presentation of the A. R. Bluett award to Tamworth Regional Council. I asked Mayor James Treloar why other members of Parliament were not present and he told me they had been sent invitations. Perhaps they were in Sydney that evening.

The A. R. Bluett Award is presented every year in the municipality and shires categories for a council that has made the "greatest relative progress" during the previous year. Tamworth Regional Council won the municipality category out of the 15 entrants and Temora shire won the shires category. This is the first time since 2005 that categories have been won by country councils. In 2005 Dubbo won the municipality category and Gwydir won the shires category. There were wonderful celebrations in the Gwydir district that year. The entire town turned up for the event. It was almost declared a picnic day.

The A. R. Bluett Memorial Award is the most prestigious award in local government so this was a very exciting achievement for these councils. Tamworth Regional Council previously won the title in 1982 and the 2009 entry was its first nomination since then. The A. R. Bluett Memorial Award was named after Albert Robert Bluett, an outstanding figure in local government and long-time secretary and solicitor to the Local Government and Shires Associations, and the award was established after his death in 1944. A panel of three judges determines the award winner—one from the Local Government Association, one from the Shires Association and one from Local Government Managers Australia, New South Wales Division.

Having been declared a natural disaster area as a result of the November 2008 floods, Tamworth nevertheless won the Tidy Town of the Year Award in 2009. Tamworth is famous particularly for its Country Music Festival held in January each year, which is a showcase event. Tamworth Regional Council does a great job hosting the festival but council earned this award through its everyday services and improvements for residents and ratepayers. These include projects such as the \$30 million Australian Equine and Livestock Events Centre, which was the subject of a good 10 years work by council, community members and politicians, with \$10 million provided in State and Federal government funding—New South Wales providing \$3.25 million. The event is world class and will provide space for many equine and livestock events, as well as TAFE courses through a special partnership between council and TAFE.

Another exciting entertainment venue project is the \$1.65 million Capitol Theatre, which involved the cinema complex being refitted to be a live performance theatre, providing it with the ability to fulfil both purposes. This cost-effective project will provide more performance space at a fixed cost, encouraging local performance groups to stage their work. Further essential but substantial capital works and services backed up Tamworth's claim to the A. R. Bluett award. These include completion of the \$8 million Taminda levee to protect the industrial precinct from flooding; further advancement of the \$80 million Westdale sewerage augmentation; finalisation of the \$30 million waste services management contract; completion of the draft regional local environmental plan; the Tamworth regional development strategy to address economic and social sustainability of smaller towns and villages; development of a cultural plan; and finalisation of planning for a \$8 million indoor sports stadium and a \$3 million riverside sports precinct.

A big factor in this win was the successful amalgamation. Formerly there were four smaller rural councils including Tamworth City Council, a doughnut council and two others. These councils amalgamated successfully to produce the existing functional organisation. The excellent funding provided by both the State and the Federal Government over several years has created a very good living and working environment for the people of Tamworth. I congratulate Tamworth Regional Council on its award.

HUNTER REGION PUBLIC HOUSING

The Hon. ROBYN PARKER [5.40 p.m.]: Public housing development is proceeding across the Hunter as fast-tracking of the Federal Government economic stimulus programs continues to gain pace. The Urban Taskforce recently revealed figures that said 427 public housing units and houses in the Hunter region had been self-approved by the State Government in the past year. According to the Australian Bureau of Statistics one in ten houses built in New South Wales in the six months to September last year were public housing homes compared with one in 25 in the previous two years. That might be a good thing, I guess, because we certainly need public housing; but it is indeed a condemnation because for some time the State Government ought to have been doing more about public housing. Labor has been in government for too long and not enough has been achieved.

However, the pace with which these self-approvals are occurring is causing all sorts of problems. There is outrage right across New South Wales, and in the Hunter in particular, about the fast self-approval process. Indeed, Urban Taskforce Chief Executive Aaron Gadiel said that the acceleration in public housing approvals threatened to skew the Hunter's urban landscape as private sector applications remain caught up in red tape. The New South Wales Government, using the guise of the Rudd stimulus package, is pushing incredibly fast through this process and in doing so has thrown out local government planning guidelines and in many cases has ignored the community's concerns. What we end up with is public housing that is unsatisfactory and unsuitable for people who live in it and that will create a lot of problems not only for those who live around it. Those who live in public housing deserve to live with dignity: they deserve to live in a community where they are respected and acknowledged. Putting people into public housing that is substandard, that stands out amongst the community and does not fit in with the nature of the community, is really going backwards. Ignoring what local government planning guidelines say, and indeed what we have learnt about public housing and what works well, is creating this huge problem in the Hunter, and the community has the right to be concerned.

Maitland City Council calls itself a can-do council. The council has a right to be concerned. Parliamentary Secretary Matthew Morris said at a recent public meeting that councils take too long to approve developments. That approval process is important: it considers overshadowing, infrastructure needs, and what is appropriate in a community. Maitland council has a very good reputation. On average, the council takes around 24 days to get through an approval process. Those sorts of considerations are taken into account. Maitland council recently wrote to Mr Borger and asked him to consider building on greenfield sites. That has been rejected by Mr Borger, and yet it seems like a reasonable suggestion to build two-storey housing in an area where it is suitable. In Maitland one-storey housing now predominates in residential precincts: there are one-storey homes in most areas. Suddenly we will have an overdevelopment of three two-storey buildings on sites—203 units in Maitland—and an adverse stigma will be attached to public housing; the public housing will simply stand out from the general housing. The Government should be sympathetic with the community. The community is very happy with single-storey public housing; they have been living side by side with single-storey public housing.

Maitland City Council's suggestion was reasonable, but it was ignored by Minister Borger because Minister Borger wants to push ahead with this process. The Maitland community and the residents who will live in these developments will suffer because of that. The Minister said a number of these developments had won architectural awards. The Minister had to retract that statement because the developments had not won architectural awards. The department might have won architectural awards, but these units do not offer quality housing for those who live within. They offer poor amenity for residents and poor amenity for the tenants of public housing. Public housing tenants deserve to live in a good environment, they deserve to have things such as parking and clothes lines, and they deserve to have quality of life. They are being denied that right in the Government's effort to rush through the process and ignore good local government planning and guidelines, and ignore the community in the process. The State Labor Government ought to be condemned.

QUEANBEYAN ROAD WORKS AND ASBESTOS EXPOSURE

The Hon. MATTHEW MASON-COX [5.45 p.m.]: It is a sad day when governments endanger the lives and health of the people they were elected to represent. It appears that the Federal Labor Government's recent disregard for the health and wellbeing of Australians is contagious. I reluctantly report to the House that this State Labor Government is also putting lives at risk while trying to pull the wool over the eyes of concerned residents to hide its total incompetence and disregard for their wellbeing. In 2008 the Roads and Traffic Authority [RTA] proposed to realign a section of the Kings Highway just outside Queanbeyan to address a number of safety and traffic concerns on this stretch of the highway. The new section will run through an existing road reserve that bisects Queanbeyan's Kingsway estate. As a result, residents who once had idyllic views of the Australian bush now will be looking over a noisy four-lane highway. Naturally, residents are alarmed at the impact of these roadworks but, sadly, their concerns have been ignored by the Roads and Traffic Authority and the local State member, Steve Whan.

The road reserve has been used for many years as an illegal dumping ground. The RTA's "Review of Environmental Factors" document clearly identified a number of hazardous materials present on the site, including, as outlined in paragraph 6.1.2 of the document, "Potential Impacts" from the RTA's "stockpiled 'dumped' asbestos containing material and mixed debris across the site, and asbestos containing material (ACM) fragments distributed across the site surface". The dangers of this asbestos were such that a land specialist was engaged in order to prepare an action plan for remedial works—an excellent idea, had it actually been used.

Instead, on the morning of 28 January this year, the residents of Kingsway awoke to find their entire suburb engulfed in a haze of dust. This dust was so great that one resident had to leave his property because his four-year-old granddaughter was extremely distressed with breathing difficulties. To top this off, the RTA's contractor then trucked approximately 600 tonnes of material, containing asbestos, uncovered, through Queanbeyan, in contravention of its own safety standards and hazardous material transport guidelines. Residents of the Kingsway estate have tried many times to draw the attention of the Roads and Traffic Authority and Mr Whan to the dangers present. In early February this year the residents blockaded the worksite in order to protect their families. In spite of this, the local member has refused to meet with residents and has been pushing ahead with the upgrade, professing that it is for the "greater good for the community" by increasing road safety, yet he does not seem to care that by not implementing proper safety procedures the Roads and Traffic Authority is placing people at even greater risk through exposure to asbestos.

Mesothelioma, caused by exposure to asbestos fibres, is a very real threat to the residents of the Kingsway estate, and indeed to the residents of Queanbeyan. This serious threat could have been prevented if standard safety procedures at the site had been observed by the Roads and Traffic Authority. Instead, occupational health and safety assessors were not present when the asbestos-ridden material was removed, nor were any health and safety precautions taken—precautions that are required by law. Indeed, at a 12 February meeting with residents the Roads and Traffic Authority admitted that it and its contractor had failed in its occupational health and safety obligations. To compound this, WorkCover refused to send an inspector to the worksite, despite being notified by residents of the potential health and safety risks. It is odd that WorkCover is so quick to prosecute many small businesses on the most minor of issues but seems to turn a blind eye when the Government is the perpetrator. This is in clear breach of its statutory duty.

While WorkCover has denied that there is any breach of occupational health and safety laws, I am mystified as to why it will not even bother to inspect the worksite and observe the removal of the asbestos. The residents of the Kingsway estate are not on a witch-hunt; they merely want the health and safety of their community to be taken seriously by this Government. The residents of the Kingsway estate have requested: that the removal of asbestos from the building site be investigated and monitored; that the Roads and Traffic Authority install "No compression braking" signs in an appropriate location near the future road section; install speed and decibel cameras in an appropriate location near or on the future road section on both sides; use open-graded asphalt in the construction of the new road to minimise noise; install noise mounds and sound barriers along the new road section in accordance with the above specifications; and finalise the agreement with the affected residents regarding the architectural upgrades, noise assessment reports and future noise assessments.

I call on the Roads and Traffic Authority and the Government to respond positively and quickly to these reasonable requests. I also call on the Government to immediately establish an independent inquiry to investigate whether the asbestos removal and transportation thereof was carried out in a manner consistent with the relevant laws and regulations.

BARANGAROO REDEVELOPMENT

Ms SYLVIA HALE [5.50 p.m.]: In a letter to the *Sydney Morning Herald* on 23 December last year Newtown resident Margaret Ferrie wondered:

Why is it that no large building project in Sydney is financially viable unless it is at least 15 per cent larger than allowable under the planning regulations?

One might also ask: why it is always accompanied by a loss of public space? The original design for Barangaroo proposed by Thalís, Berkemeier, Irwin set aside 11 hectares for public domain. Its concept for the site was adopted but subjected to a condition that changes could be made to "naturalise the foreshore section of the park". The chief supporter of this change was former Prime Minister Paul Keating, who derided architects for their compulsion to impose formalised order over the natural form. Yet since 2006 amendments made to accommodate this condition have resulted in the loss of 1.7 hectares of accessible open space.

Now what has taken everyone's breath away is former Prime Minister Keating's fulsome endorsement of a proposal that projects a pier—an artificial construction—some 150 metres into the harbour. A director of the National Trust has likened this to a "privatisation of the harbour", one that permits the construction of a privately owned and operated hotel at Barangaroo that intrudes 150 metres into the harbour. As Carol Dance said in a letter appearing in today's *Sydney Morning Herald*:

How can the Barangaroo Delivery Authority and Paul Keating praise a plan to return two-thirds of Barangaroo to a more natural shoreline but in the next breath propose to fill in a long strip of the harbour to create an unnatural shoreline... Isn't that re-creating the natural shoreline in one place and creating an unnatural one in another?

Roger Rajaratnam, who was involved in the original design concept, went to the heart of the matter in his letter in today's *Sydney Morning Herald* when he said:

Building a 213-metre-tall luxury hotel more than 100 metres out into Sydney Harbour is not "treading lightly", as Richard Rogers—

Another architect associated with the project—

asserts. It's as heavy-handed, high-impact and grossly over-scaled as it gets. The proposition that "the difficulties of achieving a good design made building over the water the best solution" is preposterous—99.9 per cent of well-designed buildings in the world are built on land. There is no reason that a good design could not have been achieved on land.

It is absolutely essential that Barangaroo is the subject of great public scrutiny. The proposal to allow Lend Lease to lead the consortium to develop it also should be subject to very public scrutiny, as should the release of documents. I believe four essential components should be taken into consideration with proposals such as this. First, there should be no encroachment into the harbour, other than by a ferry pier. Second, the current proposal to build a 213-metre tall luxury hotel establishes a very poor precedent that may well lead to further privatisation of harbour waters. It is not acceptable to build a hotel at this site as it prioritises the needs of the wealthy few over the interests of the vast majority of the public. Third, there should be a light rail loop to genuinely connect the Barangaroo precinct with the remainder of the city, and perhaps the light rail could be free. We have a free bus service circling the city so a free light rail service, as proposed by the City of Sydney Council, to include Barangaroo would be a major attraction and of benefit to the public. Fourth, the development should be self-sufficient—for example, as is proposed for the Sydney Town Hall and as is happening at the Carlton United Brewery site near Central. It is not adequate to say there will be zero carbon—[*Time expired.*]

EUTHANASIA SURVEY

The Hon. GREG DONNELLY [5.55 p.m.]: Those members with fond memories of statistics 101 lectures at university will recall that when it came to the design of questionnaires we were told, "You can get any answer on any matter you want, it just comes down to how you design or ask the question." A one-dimensional question is fine when the issue is more or less immaterial to our overall wellbeing as individuals or as a society. For example, questions asked in a simple survey such as "Do you prefer beef or lamb?" or "Do you prefer to drive a Ford or a Holden?" require a simple yes or no answer. In fact, that is all one is allowed to say. The danger comes when single-question polls purport to reveal public opinion on very complex issues, matters that really do quite profoundly impact on the health, happiness and wellbeing of individuals and society.

Scientific and ethical review panels must approve all reputable research in Australia. No serious research is ever conducted on the basis of a single-question opinion poll. When researchers want to build up credible data about an important matter they use questionnaires or multiple-question surveys, even if they are only investigating one or two key issues. By asking more or less the same question in several different ways serious researchers establish a degree of objectivity. They can work out how well the respondent understands the complex issues, and they can validate responses by crosschecking different answers. This technique also prevents the researchers from leading respondents down a preferred path, which can happen when a question is loaded. I draw the attention of honourable members to the recent survey by Dying with Dignity NSW which was emailed to all members earlier this year on 12 January, and again on 25 February, as a good example of what not to do. We were asked to answer the question:

If a hopelessly ill patient, experiencing un-relievable suffering, with absolutely no chance of recovering, asks for a lethal dose, should a doctor be allowed to provide a lethal dose or not?

Madam President, can you guess which answer Dying with Dignity NSW wanted us to give? The odds are stacked against you from the start. Simply giving the answer no seems manifestly cruel and unreasonable. The question leads you down a one-way street to the obvious yes, the preferred answer. By describing the illness as "hopeless" and the suffering as "un-relievable" the question has already determined that you have no other options. Never mind the difference between physical pain and other kinds of suffering, and forget about the alternatives offered by excellent medical care, such as palliative care. Certainly do not worry about the practicalities of legislating, monitoring and controlling practices which have proved uncontrollable elsewhere in the world—for example, in Holland. Dying with Dignity NSW wants you to ignore the fact that some incredibly complex medical, social and personal issues have been reduced to a single black or white question that is clearly designed to produce only one outcome. If there is no objectivity in the question there will be none in the answer.

The one great truth about surveys and polls is that the more profound the issue we wish to investigate the more careful, rigorous and comprehensive must be our investigation. Single-question opinion polls eliminate complexity by simply ignoring it. That is why they are best suited to inconsequential matters of taste or simple matters at issue. When we need hard data and solid information to help us chart a course through a difficult and complex social issue only serious objective research will do. The survey being circulated by Dying with Dignity NSW is deliberately structured to produce a particular outcome. In my view Dying with Dignity NSW is acting in a most fraudulent and misleading way. Any results or outcomes that flow from its survey should be dismissed out of hand.

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

Motion agreed to.

The House adjourned at 6.00 p.m. until Tuesday 9 March 2010 at 2.30 p.m.
