

LEGISLATIVE COUNCIL

Wednesday 21 April 2010

The Acting-President (The Hon. Kayee Griffin) took the chair at 11.00 a.m.

The Acting-President read the Prayers.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT BILL 2010

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

Motion by the Hon. Tony Kelly 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

Formal Business Notices of Motions

Private Members' Business items Nos 226, 238, 239 and 240 outside the Order of Precedence objected to as being taken as formal business.

UNPROCLAIMED LEGISLATION

The Hon. Tony Kelly tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 20 April 2010.

IRREGULAR PETITION

Leave granted for the suspension of standing orders to allow Ms Sylvia Hale to present an irregular petition.

Snowy Hydro Licence

Petition requesting an amendment to the Snowy Hydro Licence to make minimum environmental flows mandatory, ensure permanent spills into the upper Snowy River and decommission all aqueducts on the Snowy River tributaries, received from **Ms Sylvia Hale**.

PETITION

Coogee Bay Hotel Site

Petition opposing any redevelopment of the site bounded by Coogee Bay Road and Arden and Vicar Streets under part 3A of the Environmental Planning and Assessment Act 1979, received from the **Hon. Don Harwin**.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 233 outside the Order of Precedence withdrawn by the Hon. Matthew Mason-Cox.

Private Members' Business item No. 226 outside the Order of Precedence withdrawn by Dr John Kaye.

PRIVILEGES COMMITTEE**Reference**

The Hon. JENNIFER GARDINER: According to section 72C (5) of the Independent Commission Against Corruption Act 1988, and paragraph (2) (c) (iv) of the resolution of the House establishing the Privileges Committee, I inform the House that on 20 April 2010 the Privileges Committee resolved to inquire into the Code of Conduct for members, including aspects of the pecuniary interest disclosure regime for members under the Constitution (Disclosures by Members) Regulation 1983.

PRIVILEGES COMMITTEE**Report****Motion by the Hon. Jennifer Gardiner agreed to:**

That the House adopt report No. 48 of the Privileges Committee, entitled "Citizen's Right of Reply (Church of Scientology, Australia)", dated March 2010.

Pursuant to standing orders the response of the Church of Scientology, Australia was incorporated.

Reply to comments by Dr John Kaye MLC in the Legislative Council on 25 November 2009

I write to seek a Citizen's Right of Reply regarding comments made in the Legislative Council by Dr John Kaye MLC on the evening of 25 November 2009.

The Church of Scientology believes that Dr John Kaye's statements under privilege were false and unsubstantiated, and that they may adversely affect the reputation of the Church of Scientology, Church staff and their association with others.

The Church of Scientology is a worldwide religion comprising over 8,000 Churches, Missions and affiliated groups, made up of millions of members in 165 countries of the world. It is a globally recognized supporter of some of the most successful social betterment programs on Earth, addressing societal ills such as drug abuse, illiteracy, human rights and intolerance. The Church's more than 200,000 Volunteer Ministers are an active force in disaster relief efforts worldwide.

Scientology meets all three criteria generally used by courts and religious scholars around the world to determine religiosity: (1) a belief in some Ultimate Reality, such as the Supreme or eternal truth that transcends the here and now of the secular world; (2) religious practices directed toward understanding, attaining or communing with this Ultimate Reality; and (3) a community of believers who join together in pursuing this Ultimate Reality.

Courts and various governmental agencies in the United States, Europe and other countries have repeatedly acknowledged Scientology's religiosity.

In April of 2007 and again in October 2009, the European Court of Human Rights held that Scientology churches are to be afforded the same rights as any other religious institutions throughout Europe.

In October 1983, the High Court of Australia recognized Scientology as a religion in a decision that crafted a modern definition of religion along the above guidelines. That decision has become the standard for determining religiosity throughout Australia and New Zealand.

Ultimately, the issue comes down to the sincerity of a religion's adherents and the testimonies of Scientologists all over the world, and their dedicated support to the aforementioned humanitarian programs speaks volumes in this regard.

An individual named Marty Rathbun held a position over legal and public relations matters in the United States. He was removed in 1993 after having inexplicably deserted his post. Marty Rathbun later returned and held various junior positions and worked his way back onto external and legal affairs. By 2002 his malfeasance became apparent and he was removed from any position of executive authority. The internal investigation leading to his removal also revealed a series of incidents of physically attacking fellow staff as an intimidation method. At the time he left the Church entirely in December 2004, he was working in the Church's carpentry mill in Florida.

The Church has no interest in airing the dirty laundry of former members. Unfortunately, however, to set the record straight, we are now being put in the position of having to relay the true facts surrounding his removal from his ecclesiastical position. Our response has been based solely on the necessity to correct the record.

Marty Rathbun has admitted that he became physically aggressive toward fellow staff members. One of the tenets of the Church, as written in the book entitled 'The Way to Happiness' encourages one to treat others as you would want them to treat you with kindness and understanding. When the extent of Rathbun's conduct became known, he was removed from his position.

Mr Rathbun's present allegations concerning Mr David Miscavige, the ecclesiastical leader of the Scientology religion, are directly contrary to previous statements Mr Rathbun has made. In the following declaration signed under the penalty of perjury on 10 March 2000, Mr Rathbun states:

Over the years I have witnessed innumerable personal attacks upon Mr Miscavige's family, his character, his integrity, and his leadership by apostates and other opponents. Frequently vicious, uniformly offensive, such attacks are a reflection of Mr Miscavige's success in safeguarding the religion against attack. Until recently, I have considered the individuals who have attacked Mr Miscavige as merely embittered spite-driven anti-Scientologists. However, as described below in more detail it has recently become clear to me that these individuals are seeking more than merely the removal of Mr Miscavige or purported reform of the Church. Their ultimate goal is to take over the Church of Scientology...

The Church similarly denies Dr Kaye's allegations concerning the Church's policy concerning abortions. The Church does not condone or recommend abortion to anyone. Unlike members of other religious orders, members of the Sea Organization are permitted to marry and originally to have children. Since 1986, it has been the policy of the Sea Organization that married Sea Organization members wishing to have children do so outside of the Sea Organization, with the option to return when their children are of age. Numerous sworn statements from Australian based female staff that have had children whilst in the Sea Organization will confirm this fact.

Church staffs, including Sea Organization members, volunteer their time and energy for the satisfaction of helping people and contributing to achieving the aims of Scientology which is a civilization without insanity, without criminals and without war, where the able can prosper and honest beings can have rights, where man is free to rise to greater heights. Material or monetary gain, similar to other religions, is not their motivation. If staff members want to leave they can do so without threat or punishment and over the years staff have done so and join staff again in later years.

The various unproven allegations made by Marty Rathbun have been documented as false by his own statements and by others.

Dr Kaye has never contacted the Church regarding the matters that he raised in the Legislative Council. The Church is happy to meet with Dr Kaye if he has any further matters that he wishes to address.

PRIVILEGES COMMITTEE

Report

Motion by the Hon. Jennifer Gardiner agreed to:

That the House adopt report No. 49 of the Privileges Committee, entitled "Citizen's Right of Reply (Mr D. Kennedy) (No. 2)", dated March 2010.

Pursuant to standing orders the response of Mr D. Kennedy was incorporated.

Reply to the answer given by the Minister for Police, the Hon Michael Daley MP, to Question Number 3667 submitted by Dr John Kaye in the Legislative Council on 22 September 2009

I write to seek a Citizen's Right of Reply under standing orders 202 and 203 in respect to the answer given by the Minister for Police, the Hon Michael Daley MP, to Question No. 3667 on 27 October 2009 submitted by Dr John Kaye MLC in the Legislative Council on 22 September 2009. I request that this letter be read into the Parliamentary record.

Question 3667 referred to me by name, suburb and former profession, and the Minister's response made it clear that he was referring to me in his answer.

As a former highly respected licensed security consultant (under New South Wales security industry legislation), I have conducted some 16,000 site security inspections (an estimated 1,000 or so of those after an illegal entry had been perpetrated), and a further 500 or more site security inspections of bank branches (an estimated 200 of those after a preventable armed hold-up). I have done security works on the homes of three Prime Ministers and a number of Federal Ministers, on the homes of judges and magistrates and those under witness protection, and even on the homes of a couple of ICAC Commissioners and a couple of Police Commissioners, and of course significant security works at most of the Defence Force bases in New South Wales. I have even provided barrier security advice to the likes of the Federal Government's Attorney General's Department.

Accordingly, I find the Minister's dismissal of the serious issues involved in Dr Kaye's question and, by extension his dismissal of the plight of the victims and the potential victims, comprising a very broad spectrum of the citizens of New South Wales, highly offensive.

The Minister's response states 'Mr Kennedy's concerns are well known due to his extreme correspondence on this issue over many years'. I believe this remark may denigrate me in the eyes of members of the Legislative Council before whom I am endeavoring to have my allegations addressed.

It would be appropriate at this stage to draw your attention to my previously published and related Report No. 44 entitled "Citizen's Right of Reply (Mr D Kennedy)", dated June 2008, which involved an answer to Question No. 0224 given in the Parliament by the then Minister for Fair Trading, the Hon Linda Burney MP. That question, and now Question No. 3667, were both asked by Dr John Kaye and both related to the administration of New South Wales security industry legislation.

During December 2009, the Department of Fair Trading amended their Home Building licensing web-site, thereby acknowledging the very basis of my many submissions over the years.

I am a reasonably well informed member of the electorate with a social conscience, and so I find it absolutely beyond belief that the Minister in his answer to part 2 of the question accepts the refusal of 'the many oversight organizations' to investigate my allegations of extremely serious white collar criminality against the upper echelons of the New South Wales Government.

Minister Daley refers in his answer to Mr Kennedy's "concerns" when he is well aware that in fact I have made allegations of significant criminality.

The Police Department will investigate and prosecute those they allege may have knowledge of a crime and do not come forward to report it. Yet when I come forward with the most serious of allegations against the Government the Minister believes the authorities should be able to reserve the right not to investigate.

In regard to Minister Daley's reference to the Ombudsman, I have a letter from the New South Wales Ombudsman, dated 14 July 2008 (Ref C/2008/5226), advising that the *Ombudsman Act 1974* prevented him from investigating my allegations.

I also dispute Minister Daley's reference to the Police Integrity Commission. I refer to a letter from the Police Integrity Commission, dated 9 December 2003 (Ref 11984/13) and signed by the Commissioner, advising that he would not be investigating my complaint 'because, compared with other matters under consideration and investigation, your complaint did not achieve the priority necessary for the Commission to commence an investigation. This is because your complaint deals mainly with issues related to police inaction'. Nothing could be further from the truth.

One of the reasons that was given to me by ICAC for refusing to investigate one of my allegations of serious criminality was that 'ICAC were not there to interpret the law', dated 1 May 2009 (ICAC Ref E0910305). And then ICAC go off and investigate the Roger Training Academy, the Security Industry Regulation and an estimated \$1.3 million of transactions. That investigation must surely have involved ICAC's interpretation of the Security Industry Regulation.

Minister Daley's response to part 4 of the question reads 'All necessary actions will be taken by police to ensure security industry requirements are met by licence holders'. He doesn't mention the hundreds of firms operating illegally without a licence.

Surely it stands to reason that had the estimated \$2 billion to \$5 billion of illegal, unlicensed, and probably criminal security works been done in accordance with the requirements of the relevant Security Industry Acts, that in turn would lead to a reduction in break and enter, which in turn would mean so much less police manpower required to respond to and investigate those break and enters, and this in turn would equate to many more police officers becoming available to patrol the streets or violent areas, like the streets of Sydney for example.

On 3 August 2006, in response to an advertisement in the Sun-Herald on Sunday 16 July 2006 calling for submissions on the Regulatory Impact Statement and the proposed re-write of the Security Industry Regulation, I made a twenty page submission to the Police Policy Unit, which I copied personally to the Commissioner Ken Moroney and personally to the then Police Minister Carl Scully (both on 7 August 2006). I listed as an example of the extent of the problem across the State some twenty five local firms (and that equated to over 95% of those businesses in the area), who were carrying out works defined under the Security Industry legislation without the required Police Security Industry licences. Not only are those same firms still not licensed, but the number of illegal contractors in the area has increased. Why? In October 2006 I rang the Police Policy Unit to follow up on my submission and was told they 'didn't have time to read a twenty page submission' and 'in any event I was a known troublemaker and so they would not be considering my submission'.

I have tried to bring to the attention of the Police, former Police Ministers and the Government that significant security works at important public infrastructure have been done illegally using unlicensed contractors and unlicensed employees. They just don't want to know about it.

There are hardware stores illegally selling security driving devices to provide access into the likes of the maximum security wing of Goulburn Jail (the plans went across my desk) and into the magazines of the Orchard Hills Missile Base (my firm did the security). There are also multi-million dollar advertising campaigns for a particular type of security product that clearly breaches both NSW Fair Trading Legislation and section 33 of the *Security Industry Act 1997* (Misrepresentation and Related Offences).

Minister Daley's response overall is misleading and I believe he ought to have had the commonsense to further question the answer that may have been provided to him.

I fully appreciate the gravity of the matters that I have put before you but I honestly believe that the Parliament and the electorate are entitled to have these matters investigated and Minister Daley's answers to the Parliament in this regard challenged.

Many of the allegations of criminality referred to above were made publicly before the Federal Government's Legislative and Constitutional Affairs Committee investigating Crime in the Community in 2003 (refer to Submissions Nos 133 to 133.6). They are still unresolved.

I reiterated in my Report No. 44, dated June 2008, that those allegations of criminality were still outstanding and still no one in the Government has reacted.

I thank your Committee for allowing me to put forward my point of view in regard to these disparaging remarks made by various Ministers.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT BILL 2010**Second Reading**

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.17 a.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The ability to cast a secret ballot is a central feature of democratic elections.

At present, many vision impaired and other disabled persons do not have the opportunity to vote secretly an opportunity that many of us take for granted.

Under existing electoral processes, a person who is unable to vote without assistance has no choice but to enlist the help of another to cast their vote.

This Government wants to make sure that as many people as possible participate equally in our democratic process—especially in the lead up to next year's State election.

This Government has already pioneered changes to improve access to the franchise for electors with a disability.

Amendments to the Parliamentary Electorates and Elections Act introduced by the Government last year extended the right to apply for a postal vote and pre-poll vote to persons with a disability.

Persons with a disability are also eligible to become registered as general postal voters as a result of the Government's electoral reforms.

Still, more can be done to increase the opportunities available to vision impaired and disabled electors for electoral participation.

In its report on the 2007 State election, the Joint Standing Committee on Electoral Matters recommended that the New South Wales Electoral Commission examine ways to allow vision impaired electors to cast a secret ballot.

Advances in technology mean that there is now a range of options that can be explored to enable disabled persons to vote privately. Braille ballot papers, electronic voting kiosks and Internet voting are the most common examples.

In 2008, the local government regulations were amended to permit the use of Braille ballot papers for the visually impaired at local government elections.

Over 5,000 vision impaired persons were offered the option of registering for Braille ballot papers at the last local elections. Of those, however, only 52 electors registered.

Despite the fact that a number of vision impaired voters used Braille ballot papers successfully at the 2008 elections, the New South Wales Electoral Commissioner has advised that they are not an ideal option going forward particularly for State elections for a number of reasons.

First, only around one in nine vision impaired people can actually read Braille. This means that Braille ballot papers do not assist most blind and vision impaired electors. Nor are they cost effective. For example, the cost of providing Braille ballot papers to the 52 electors who requested them for the 2008 local government elections was \$24,862, or \$478 per vote.

In addition, the sheer size of the Braille ballot paper required for a Legislative Council election means that it would be extremely difficult for vision impaired electors to cast a valid vote without assistance. For example, a sample ballot paper for the NSW Legislative Council commissioned by the Electoral Commissioner is 67 pages in length.

An alternative approach is electronic or 'e-voting', which involves the use of purpose-built electronic voting kiosks at polling places.

E-voting was trialled by the Commonwealth at the 2007 federal election at a cost of over \$2,500 per vote. However, the Commonwealth Joint Standing Committee on Electoral Matters subsequently recommended that e-voting trials be discontinued due to high costs and low rates of participation.

The Electoral Commissioner has advised that the high infrastructure costs associated with e-voting kiosks means that they could only be located in a small number of polling booths.

Preliminary work done by the NSW Electoral Commission indicates that a more promising option would be Internet voting, or 'I-voting'. 'I-voting' would involve voters using a personal computer with assistive features in their home or other place to cast their vote over a secure internet connection.

The NSW Electoral Commission's research indicates that I-voting would be significantly cheaper to establish than e-voting.

I-voting also has the potential, in the future, to be used for the benefit of other groups, such as disabled people, people in rural and remote electorates, illiterate people, and people with poor English language skills, at minimal additional cost. Eventually, I-voting might also provide a means by which overseas voters can participate in State elections.

I-voting has been used successfully at public elections in several countries including the Netherlands, France, the UK, Denmark, Finland and Spain.

The Government is keen to make I-voting available for New South Wales elections.

I am pleased, therefore, to introduce this bill, which provides for the Electoral Commissioner to conduct an investigation into the feasibility of providing internet voting for vision-impaired and other disabled persons, and if such internet voting is feasible, propose a detailed model for adoption by Parliament.

Given the subject matter, it is appropriate that this be done by legislation rather than executive order.

In undertaking that investigation, the Electoral Commissioner will be expected to consult with stakeholders in the disability sector and take appropriate technical advice.

Subject to the Electoral Commissioner's report, the Government plans to introduce Internet voting in time for the next election. The Electoral Commissioner will therefore report to the Premier within 3 months, and that report will be tabled in Parliament.

In addition to the development of I-voting, the bill will also make a number of amendments to clarify certain administrative processes under the Act—many of which were requested by the Electoral Commissioner.

Schedule 2 of the bill clarifies that t-shirts and other small items that might bear political slogans do not also need to bear the name and address of the person on whose instructions the matter was printed, or the name and address of the printer.

The proposed amendment is consistent with section 328 of the Commonwealth Electoral Act.

Schedule 2 also amends the Act to make clear that electoral material must clearly identify the actual person, political party, organisation or group on whose behalf the material is to be distributed not just the "author" of that material.

The amendments in schedule 3 of the bill clarify the rules governing the registration of parties.

At present, parties that wish to nominate candidates for election must register with the New South Wales Electoral Commission.

Under the Act, the Electoral Commissioner can refuse to register a party name on various grounds for example, if the name is obscene or offensive, or if it is identical to the name of another registered party, or so nearly resembles the name of another registered party that it is likely to be mistaken for that name.

The Commonwealth Electoral Act gives the Commonwealth Electoral Commissioner similar grounds to refuse to register the name of a party applying for federal registration.

Even though the Commonwealth and New South Wales provisions regarding party names are consistent, it is possible that a party which has been registered under the Commonwealth Act may be refused registration under the very same name in New South Wales.

This would be a strange result and one which could lead to voter confusion.

To ensure consistency at the Commonwealth and State levels, the bill therefore provides that the NSW Electoral Commissioner cannot refuse to register a party on the relevant grounds if the party, or an associated party, is already registered under that name under the Commonwealth Electoral Act.

The only exception is where the proposed name of an aspiring party too closely resembles the name of an existing party that is only registered in New South Wales and not at the Commonwealth level.

Schedule 3 of the bill also seeks to provide greater certainty for the Electoral Commission with respect to amendments to the Register of Parties.

In particular, it clarifies that amendments to registration details can be made at any time other than in the period between the issue of the writ for an election and polling day.

It also confirms that the Electoral Commissioner is not obliged to take any action with respect to amendment applications in period between the issue of the writ and polling day.

Finally, Schedule 4 of the Act amends an uncommenced provision of the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* to clarify that political parties and Members of Parliament may request access to data regarding pre-polling places, as well as ordinary polling places. This amendment corrects a minor drafting oversight in the 2009 amendments.

These changes are about streamlining our electoral process removing red tape and enabling more people to participate in a fairer and more accessible system.

I commend the bill to the House.

The Hon. DON HARWIN [11.18 a.m.]: I support the Parliamentary Electorates and Elections Amendment Bill 2010, which seeks to make a range of amendments to the Parliamentary Electorates and Elections Act 1912 relating to the conduct of elections and electioneering in New South Wales. Many of these changes were a result of recommendations made by the Joint Standing Committee on Electoral Matters following its inquiry into the conduct of the 2007 State election. Specifically, the bill seeks to expand access to elections for visually impaired voters, clarify existing regulations surrounding the identification of electoral material, and make provision for the publication of information about the distribution of first preference votes following the conduct of an election.

The Parliamentary Secretary in the other place stated, "The Government wants to make sure that as many people as possible participate equally in the democratic process" and the Opposition joins with the Government in supporting that objective. The Joint Standing Committee on Electoral Matters, upon which I and the Hon. Jennifer Gardiner serve, conducted a comprehensive consultation and inquiry into the conduct of the 2007 State election with a view to making a list of recommendations for the Government to aid access to and ease of voting in New South Wales.

Central to these recommendations was a provision for the electoral Commissioner to conduct an investigation into the feasibility of providing Internet voting for vision-impaired and other disabled persons, and to propose a detailed model for the adoption of i-voting by Parliament. The Opposition firmly believes that a central tenet of our democratic process is the right to cast a ballot in secret, without fear of interference by another person or party. Unfortunately, for too many visually impaired residents, that option is not available to them at present, leaving them no choice but to request assistance. An e-voting trial for the vision impaired was undertaken at the 2007 Federal election and received extremely positive feedback from groups such as the Human Rights and Equal Opportunity Commission, Vision Australia and Blind Citizens Australia. For instance, in Victoria voter turnout at the last Federal election was 41 per cent higher than at the 2006 State election held one year earlier.

Furthermore, visually impaired voters recorded a significantly improved voting experience. Indeed, as Susan Thompson of Vision Australia put it, "A secret vote is not having a polling official reading and writing for you ... it is being able to assess and make your own selection from the ballot, review and verify your choices, and have no-one else privy to that vote." Unfortunately the high cost of implementing e-voting across the country makes this a difficult option to explore. However, we should never place too high a price on franchise and I am pleased that our joint standing committee's suggestion has been included in the bill.

Research by the New South Wales Electoral Commission suggests that i-voting may be significantly cheaper than the \$2,500 per vote under e-voting at the last Federal election. I eagerly await the outcome of the commissioner's trials in New South Wales and hope that a safe, secure and reliable means of voting may be available for those with vision impairment in the near future. The successful implementation of these voting systems in countries such as the Netherlands, France, the United Kingdom, Denmark, Finland and Spain is a promising sign for the thousands of visually impaired voters in New South Wales who must currently rely on assistance from polling place workers or friends to vote every four years in State general elections. Exploring e-voting and i-voting options in New South Wales will go a long way to ensuring that the right to vote secretly is neither restricted nor denied for any of our citizens.

The committee had explored the option of providing Braille papers to visually impaired voters but correctly determined this to be not the best way forward. Of the more than 5,000 voters offered Braille ballot papers in the 2008 local government elections, only 53 registered to take advantage of the option. The fact that approximately one in nine vision-impaired persons can read Braille is regarded as a significant impediment to the adoption of this method and I applaud the move to go beyond Braille ballots. The Opposition strongly believes that voting should be as simple as possible and that printing thousands of Braille ballots when few vision-impaired individuals are able to read them is not the most feasible option.

Furthermore, the sheer length and complexity of many Braille ballot papers, particularly for the Legislative Council, renders this option almost more confusing and may result in some voters being too confused by the sheer size of the ballot to be able to confidently cast a vote without assistance. Confidence in the process of voting is one of the most important aspects of our democracy and as one of the witnesses to the committee, Darren Fitter, reported, "There is nothing more liberating or that made me feel so much more a part of our entire democratic process than that day when I was able to do it all on my own." I personally found the testimony that Darren gave to the committee made the hearing one of the most moving hearings that I had ever taken part in. I am sure other members would agree. I saw how much the right to vote without assistance meant to visually impaired people.

The bill also clarifies in schedule 2 a number of areas of electoral law where previously there existed some degree of confusion. The Opposition is pleased that the bill clarifies the extent to which the name and address of the author and printer is required to be displayed on small items such as T-shirts, lapel badges and the like. This makes it consistent with section 328 of the Commonwealth Electoral Act and should simplify the process of printing and distributing electoral material in accordance with the Act. The bill also includes valuable amendments in schedule 3 to ensure consistency in the registration of parties at the State and Federal level. Specifically, it ensures that the New South Wales Electoral Commissioner cannot refuse to register a party on the relevant grounds if the party is already registered under that name under the Commonwealth Electoral Act. Schedule 3 also provides for greater flexibility for making amendments relating to the registration of political parties and removes the obligation for the commissioner to take action with respect to amendments submitted between the issue of the writs and polling day.

Finally, schedule 4 addresses a previous deficiency of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 to allow certain electoral information about the distribution of first preference votes to be made available to the public, with certain other information to be made available to, among others, each registered political party or member of Parliament that requests it. I trust this change will deal with concerns that Antony Green and I have raised in the Joint Standing Committee on Electoral Matters' previous inquiries into the 2007 election and others. It really has been a source of incredible frustration that on occasions the provisions of the Act have frustrated the access of psephologists in a way that was, I think, very unfortunate.

Ensuring equity of access to our democracy is surely one of the most important goals of government. Exploring new ways and trialling new technologies to ensure vision-impaired individuals are able to confidently and secretly cast their vote on election day is an admirable goal. While the trial of e-voting at the last Federal election proved costly, I applaud the work of advocacy groups and I am proud to have been a member of the Joint Standing Committee on Electoral Matters, which has explored alternative means to ensure equity of access. It is something that I think brings credit to the committee process of this Parliament. The Opposition eagerly awaits the outcomes of the trial by the Electoral Commissioner and supports all attempts to improve electoral participation. The Opposition does not oppose the bill.

Reverend the Hon. Dr GORDON MOYES [11.26 a.m.]: Family First supports the Parliamentary Electorates and Elections Amendment Bill 2010. The previous speaker has outlined all the details, particularly concerning the various options to enable vision-impaired voters to cast a secret vote. I will not go through all the provisions of the bill except to say that we support them without question. We understand, however, that the previous attempt to cater for this need among visually impaired people by producing Braille voting forms was a costly exercise and really overkill because of the lack of numbers of persons who want to vote using the Braille voting form. The development of e-voting and i-voting is very important and I believe a lot more could be done in this way.

In the United States of America I attended the voting for the last presidential election, which elected Barack Obama, and through a friendship with a person who was in charge of one of the local regional voting centres I investigated how electronic voting works in the United States. In fact, I was even given the opportunity to cast a vote for the various local representatives in the area based on the spurious evidence that for 22 years I have been an adjunct professor of an American university and they assumed somehow or other that I was an American citizen. I used the electronic voting systems and found them really helpful. I believe we in Australia have to move from the paper ballot to other forms of electronic and i-voting very quickly. We are being left behind in this field. I think it would be so much quicker in every way.

The most important issue relates to people who cannot use normal systems because of lack of vision, but I would also include people with other disabilities such as those who cannot write, cannot read, or who suffer from disabilities such as dyslexia. Members have heard me speak on this issue many times in this House. We have taken steps and made some significant achievements in the Department of Education and Training in helping children and others with learning disabilities. Only last night I spoke about the Macquarie University programs to help people gain accessibility, particularly those people who cannot speak, write or read. The bill is a step in the right direction. It is important for democracy that all persons in society have access to voting. It is essential that people with disabilities are treated fairly. Therefore I support this bill on behalf of Family First.

The Hon. JENNIFER GARDINER [11.29 a.m.]: I speak in debate on the Parliamentary Electorates and Elections Amendment Bill 2010, one of those machinery bills that comes up at this time in the electoral cycle. Obviously, the Government has to prepare the way for a general election and a number of items in the

Parliamentary Electorates and Elections Act need to be attended to. The Joint Standing Committee on Electoral Matters has reported to the House on some of those items, in particular, in its inquiry into providing the best possible access to our democracy for those who are vision-impaired or who have other disabilities so that they can participate fully in our democracy.

The bill attends also to other matters and provides for the Electoral Commissioner to undertake an investigation into the feasibility of providing vision-impaired voters with Internet voting. It requires a report on the commissioner's investigation and any proposed model that the commissioner comes up with to be given to the Premier for tabling in the Parliament. I have spoken before in the House about the topic that Reverend the Hon. Dr Gordon Moyes was speaking about earlier: that New South Wales is dragging the chain in developing i-voting. I was hoping that a trial for rural voters would be conducted in New South Wales in time for the general election in 2011. Regrettably, the commissioner has been unable to undertake such a trial.

We will probably have yet another election in which voters in electorates such as Barwon and Murray-Darling—even with the best will in the world on the part of the voters—will be excluded from the ballot because of problems with postal services in those remote parts of the State. We will have to wait for another political cycle for such changes to the Parliamentary Electorates and Elections Act. The bill proposes to provide at least for an investigation and then possibly for a trial for vision-impaired voters which is a step in the right direction. However, in my view we need wider provisions in future legislation. The bill will tidy up the Parliamentary Electorates and Elections Act for people involved in campaigning across the State, in particular, volunteers who manage election campaigns on behalf of candidates. They are always concerned about doing the right thing when publishing material and getting their campaign gear together. They want it to be strictly in accordance with the rules but sometimes it is finicky to find their way through the Parliamentary Electorates and Elections Act and all the regulations.

This bill will make it clear that provisions relating to the name and address of the author and printer on particular types of campaign material, such as posters and how-to-vote cards that must clearly identify the name and address of the author and the printer, do not apply to campaign paraphernalia such as T-shirts, lapel buttons, lapel badges, pens, pencils and balloons—a frequently used way of communicating messages during election campaigns in New South Wales. The same provision applies to business cards or to other visiting cards that promote the candidate of a party or an Independent candidate to the electorate, and the provision will apply also to other letters, for example, a direct mail campaign, or a mail-out of a postcode, for example, which is a common campaign technique. If it bears the name and address of the sender and it does not contain a representation or a purported representation of a ballot paper for use in the election it will not have to have on it the name and address of the author and printer in addition to the information in its contents. That is welcome news to many volunteers for all political parties across the State as we gear up for the next State election.

The bill also clarifies provisions relating to the registration of electoral material—a really important part of the New South Wales Electoral Act—in that New South Wales law requires the registration of electoral material with the Electoral Commissioner to try to minimise the opportunities for campaign and political electoral fraud during an election campaign. The Electoral Commissioner must not register the electoral material if it appears that the material does not clearly identify the person, the political party, the organisation, or the group on whose behalf the material is to be distributed—an important clarification in the bill. The identity of the person, the party, the organisation, or the group on behalf of whom they are acting must be made absolutely clear. The bill makes amendments to the registration of political parties and states:

The proposed provisions also provide that such an amendment to the Register of Parties must not be made in the period commencing on the day of the issue of the writ for an election and ending on and including the day fixed for the return of the writ.

It clarifies that the register is closed at the time of the day of the issue of the writ, which is obviously something that had to be clarified in the legislation. Earlier my colleague the Hon. Don Harwin said it was frustrating for those who follow the intricacies of election results because sometimes it is difficult to obtain specific information about what has happened to the flow of preferences in an election. The bill will amend the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 so that after an election certain electoral information about the distribution of first preference votes is to be made available to the public and certain other information is to be made available to each registered political party that wants that information and each member of Parliament who is not a member of a registered political party who makes a request in respect of his or her electoral district, which is useful information.

It has frustrated those who follow election results that it is difficult to obtain that information from the Electoral Commission, because of the way in which it collates the information. It disappears into history books without any necessary or complete analysis. As my colleague said earlier, psephologists such as Antony Green and others will be happy that their frustrations are about to come to an end. The Nationals will continue to lobby for Internet electronic voting, in particular, for people living in rural areas. It is unfortunate that New South Wales is behind jurisdictions such as the United States of America, the United Kingdom, Denmark, Finland, Spain, the Netherlands and France in relation to electronic voting. We look forward to speeding up developments in that matter following a trial relating to vision-impaired or other disabled voters in the next election. It will be welcomed by advocacy groups and by the people that they serve. I compliment them for their excellent evidence and for the submissions that they gave at a number of inquiries held by the Joint Standing Committee on Electoral Matters, one of which was dedicated to their issues. It is great that this legislation will address those issues for the coming election.

Reverend the Hon. FRED NILE [11.39 a.m.]: On behalf of the Christian Democratic Party I support the Parliamentary Electorates and Elections Amendment Bill 2010. The object of the bill is to:

- (a) provide that the Electoral Commissioner is to conduct an investigation into the feasibility of providing internet voting for vision-impaired and other disabled persons for elections under the principal Act and, if such internet voting is feasible, propose a detail detailed model of such internet voting.

This important amendment will remove the discrimination that has applied in the past to those who are vision-impaired—whether they are totally blind or they have difficulty in reading and are unable to read a ballot paper and to cast their vote. The bill clarifies also the requirement under the principal Act that advertisements, pamphlets, posters or notices containing certain electoral matter must contain a specified authorisation. I am concerned that this bill exempts T-shirts, buttons, badges and certain other articles. At a recent South Australian election polling booth workers wore T-shirts bearing a slogan along the lines, "Put the Family First", which implied to voters that they were Family First workers.

Reverend the Hon. Dr Gordon Moyes: It said, "Put the Family First. Vote Labor."

Reverend the Hon. FRED NILE: Yes, "Put the Family First. Vote Labor." However, the impression was that the polling booth staff were Family First workers. The Electoral Commissioner should approve at least T-shirts, because their slogans easily confuse voters as they approach the polling booth. Someone might wear a T-shirt with the slogan "How to vote for Labour voters"—not the "ALP". People may assume those polling booth workers were from the Australian Labor Party [ALP]. They would take the how-to-vote card believing it was from the Australian Labor Party when it comes from the Greens or some other party. As T-shirts can be effective advertising and can influence voters extensively, I urge the Government to consider including them in the materials requiring authorisation.

The bill continues the policy that the Electoral Commissioner can reject material that is obscene or offensive or bears a name that is an abbreviation or derivative of the name of a registered party or party currently represented in Parliament. It is important that this bill spells out those existing provisions in more detail. The bill will facilitate the registration of political parties under the principal Act under the same name as registered under the Commonwealth Electoral Act 1918. Again, that will speed up the electoral process. The Christian Democratic Party is pleased to support the Parliamentary Electorates and Elections Amendment Bill 2010 with that reservation about exempting T-shirts.

Ms LEE RHIANNON [11.42 a.m.]: The Greens support the Parliamentary Electorates and Elections Amendment Bill 2010 and welcome the amendments to the Act. The Act requires numerous and substantive reforms, some of which I shall mention later. As outlined in this bill, an investigation into the feasibility of providing Internet voting in elections for people who are vision impaired and those with other disabilities is an enormous step forward. As a member of the Joint Standing Committee on Electoral Matters I, along with my committee colleagues, heard graphic evidence from a number of people with varying disabilities about these important measures. While theoretically I believed we understood the importance of these amendments, certainly we were moved by the evidence of those who are visually impaired and have other disabilities.

Measures that assist disabled people to cast a vote and make it easy for them to do so without assistance obviously contribute greatly to our democracy. Reform along these lines could lead to enfranchisement of thousands of people who may otherwise not cast a vote or be able to cast a vote only with assistance. Internet voting has worked overseas; there is no reason why it cannot work in New South Wales. One comment that had the biggest impact on me was about independence. This proposed type of voting system will enable people who are vision impaired to vote independently. The Greens do not object to clarifying that T-shirts, badges, pens et

cetera do not require an authorisation to be printed on them. It simply is not practical for small items such as badges to display an election authorisation containing the name and address of the person authorising the material and details of the printer.

However, opportunities to use misleading election advertising or materials remain. Electoral material containing false or misleading statements about an election opponent or party were used in New South Wales in the 2007 Federal and State elections. The material is contained on items commonly called dirt sheets, which usually are letterboxed in the last two weeks of an election campaign. This material usually requires authorisation, but the major problem is that under the current Act, even with an authorisation, misleading election material almost always is legal. The authorisation provisions in the Act and this bill are adequate. An authorisation will identify the person responsible, but that is of little use when deliberate misinformation is permitted under the Act. The failure to ban misleading or deceptive information is a real flaw in the New South Wales election Act.

Misleading electoral material should be illegal and subject to penalty for breaching the Act. A ban should not be so narrowly defined to apply to just false or misleading material that influences a voter in the act of casting a vote; it should include material distributed or broadcast at any time, particularly during the election period. One wonders why such an easy change to make was not included in this bill. The South Australian Electoral Act 1985 contains provisions making it unlawful to advertise or distribute misleading election material. For 25 years this South Australian law has been in place and has been quite effective. New South Wales needs these changes because it has an entrenched reputation for grubby politics, such as dirt sheets in the final weeks of election campaigns.

The Hon. John Della Bosca: Never seen it.

The Hon. Helen Westwood: I've seen it in Marrickville.

Ms LEE RHIANNON: I acknowledge the interjections. What are the odds of Labor dirt sheets against the Greens being distributed in the coming election? From past election campaign behaviour, it is likely. What are the odds of The Nationals or the Liberals distributing dirt sheets on the Greens? After reading some of the letters by Andrew Constance to Bega local newspapers, that also seems very likely. Mr Constance has great difficulty in writing accurately about Greens policy.

The Hon. John Della Bosca: He used to say all sorts of silly things about me.

Ms LEE RHIANNON: I acknowledge that interjection. He has trouble writing a clear and accurate letter. It is wise also to give the Electoral Commissioner the discretion not to register electoral material for polling day if it does not clearly identify on whose behalf the material is to be distributed. There are numerous instances when voters would assume that material being handed out at a polling booth is from one party when, in fact, it is misleading material being handed out by another party. For example, at polling booths Labor often hands out green-coloured cards that contain words along the lines "Thinking of voting Green ... make sure you give your preferences to Labor." Many voters assume that such material is being distributed by the Greens when Labor in fact is handing it out. Other sensible amendments in this bill include clarification of registration at a Federal and State level, permitting amendment of the register of parties except during the election period and accessing data regarding results at pre-polling places.

Other significant amendments are needed to our electoral system under the Parliamentary Electorates and Elections Act and related Acts. I shall conclude by simply identifying four today, but they will be vigorously pursued by the Greens in coming years. This State needs election laws that establish a proportional representation voting system for the Legislative Assembly. The current system simply is undemocratic. The fact that Labor and the Coalition refuse to take up this issue speaks volumes as to the urgency of change. We also need election laws that ban completed postal vote applications being solicited by parties or candidates. Postal vote applications should be sent directly to the Electoral Commission's returning officer, not to a candidate or party.

We need laws that ban false or misleading electoral material and provide penalties for a breach. We also need laws to prevent a public servant who is an election candidate being forced by an employer to take paid leave or leave without pay during an election campaign. The lack of clarity of the current law allows discrimination against public service candidates to go unchecked. It is an interference with the democratic right of a citizen to contest an election when public service candidates cannot afford to take leave for a four-week

period or longer and, consequently, are forced to abandon their candidacy. Clearly, many improvements can be made to the Parliamentary Electorates and Elections Act. While the legislation before the House deals only with some matters, it represents some improvement to the democratic processes of the State, and it is very welcome.

The Hon. HELEN WESTWOOD [11.50 a.m.]: I support the Parliamentary Electorates and Elections Amendment Bill 2010. My remarks will concentrate on i-voting as it relates to paragraph (a) of the objectives of the bill, which states:

... the Electoral Commissioner is to conduct an investigation into the feasibility of providing internet voting for vision-impaired and other disabled persons for elections under the Principal Act and, if such internet voting is feasible, propose a detailed model of such internet voting ...

The decision of voters relating to those in whose favour they will cast their vote is an entirely personal matter, as I am sure all members would agree. The right to confidentiality associated with voting not only is important in terms of privacy but also is integral to each voter having the freedom to truly express their will, regardless of whether others in their lives—for example, carers or family members—do or do not concur with their decision. The bill before the House seeks to further protect that integrity by providing a confidential voting solution for vision-impaired and blind citizens.

The bill provides that the Electoral Commissioner will conduct an investigation into the feasibility of providing i-voting for vision-impaired people and for people who have other forms of disability. If Internet voting is feasible the Electoral Commissioner will propose a detailed model for adoption by Parliament. The Electoral Commissioner already has advised that one of the main benefits of Internet voting is that in future it could be offered to other groups of electors who have difficulty accessing polling places, such as those who live in rural and remote areas of the State. Subject to the Electoral Commissioner's report, the Government plans to make i-voting available to vision impaired and other electors who have a disability at the next State election. If i-voting for those electors is successful consideration could be given to extending the Internet voting option to other classes of electors.

I emphasise that it is not intended that i-voting will replace voting at polling booths; rather, it is intended to provide an alternative that will increase access to democratic processes for vision-impaired people, blind people, and people with disabilities. I am aware that some groups previously expressed support for e-voting, which requires electors to visit a purpose-built electronic voting kiosk at a polling place to cast their vote. E-voting was trialled by the Commonwealth Government during the 2007 Federal election, at a cost of \$2,597 a vote. Based on recommendations of the Commonwealth Joint Standing Committee on Electoral Matters, e-voting trials were discontinued due to excessive costs and low rates of participation. That recommendation greatly disappointed vision-impaired and blind electors. I recall the New South Wales Human Rights and Equal Opportunity Commissioner, Graeme Innes, expressing great disappointment about the decision.

The high infrastructure costs associated with e-voting kiosks meant that they could be located at only a small number of polling booths. E-voting kiosks would be of limited benefit to disabled persons and rural and remote electors who face challenges in attending polling places. Other members have referred to voting by people with disabilities. It is worthwhile remembering that some electors are both blind and deaf, and although they are a very small proportion of our community they are electors with very great needs whose participation is highly valued.

In contrast to e-voting, Internet voting is less expensive to establish and will provide assistance for a far greater proportion of the visually impaired, blind and disabled electors of our population. It will make voting accessible to those who have a computer with assistive features in their home or some other place. Unlike e-voting, Internet voting also has the potential for more widespread use at minimal additional cost by other groups, such as people who live in rural and remote electorates, people who are illiterate, and people with poor English language skills. The New South Wales Electoral Commissioner has advised that if i-voting is approved he will consider whether it is possible to install computers with an adaptive technology at selected polling places to address any concerns about accessibility.

As discussed in the other place, the bill follows significant and independent consultation as well as review. It is a cost-effective solution with a rather moderate initial outlay of \$1.5 million. It is expected to deliver real savings because i-voting will replace costly services such as braille votes. In our endeavour to ensure that citizens who have disabilities have the same rights as citizens who do not have disabilities, it is always important to remember how far we have come along the way to providing full access to services for people with disabilities. While much has been achieved, there is always more that can be done. Most

importantly, if the i-voting trial is successful, it will deliver independence and integrity in voting to citizens to whom that previously has been denied. Given that safe, secure technological solutions allow us to address the issues, government should implement those solutions. I urge members to support the legislation. I commend the bill to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.56 a.m.], in reply: I thank all members who contributed to debate on the bill. On behalf of the Government I take this opportunity to thank the New South Wales Electoral Commissioner and his staff for their contribution to preparation of the bill. I also congratulate the Joint Standing Committee on Electoral Matters for the committee's input to formulation of the provisions. The evidence taken by the committee during its inquiry was very persuasive. I will deal briefly with a number of issues raised during the debate.

The Hon. Don Harwin raised the issue of security concerns related to Internet voting. The Government believes that the security implications of Internet voting will be thoroughly canvassed in the New South Wales Electoral Commission's feasibility report. However, international experience reveals no evidence of increased voting fraud where Internet voting has been deployed, such as during pilot studies conducted in the United Kingdom. Internet voting is similar to already accepted forms of remote voting such as postal voting. New South Wales and Australia generally have a strong tradition of little or no fraud in public elections. The review of the 2007 Federal election by the Joint Standing Committee on Electoral Matters recommended several ways in which to make postal voting easier.

Amendments introduced by the Government last year extended the right to apply for a postal vote and pre-poll vote to persons with a disability. It is clear that we could still do more to increase opportunities for electoral participation to vision-impaired and disabled electors, and Internet voting is the next logical step that the Government will take. Reverend the Hon. Dr Gordon Moyes and the Hon. Jennifer Gardiner discussed the challenges confronting rural and regional voters and disabled voters. This bill provides for i-voting to be utilised by vision impaired and other disabled persons. We expect that the Electoral Commission's report will examine other categories of people who have difficulties of access in casting their votes. If it is appropriate the Government will examine the possibility of expanding the categories of disability addressed by i-voting. The Electoral Commissioner has advised that, if Internet voting booths do work well, another benefit will be that in future i-voting may be offered to other groups of electors who have difficulty accessing polling places, such as those who live in rural and remote communities.

A number of concerns were raised about authorisation and misleading conduct in relation to elections. It should be noted that it is already an offence under section 151A of the Act to print any electoral material that is likely to mislead or improperly interfere with electors. We believe that this should allay the concerns of honourable members about t-shirts not being authorised. In relation to the reference to dirt sheets, it was good to hear the Greens say that they condemn dirt sheets, given my experience in Marrickville where I have seen several of them put out by Greens members over time. I was pleased to hear Ms Lee Rhiannon say she does not believe that dirt sheets are a good thing. I thank honourable members for their contributions to this debate, and I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

Pursuant to sessional orders business interrupted at 12 noon for questions.

REPRESENTATION OF MINISTER ABSENT DURING QUESTIONS

The Hon. JOHN HATZISTERGOS: I advise honourable members that during the absence from the Chamber today of the Minister for Small Business, Minister for Volunteering, Minister for Youth, and Minister Assisting the Premier on Veterans' Affairs, I will answer questions relating to his portfolios. The Minister is representing the Premier at the Anzac field of remembrance service.

QUESTIONS WITHOUT NOTICE

F3 CLOSURE

The Hon. MICHAEL GALLACHER: My question without notice is addressed to the Minister for the Central Coast. Will the Minister outline to the House exactly what he did to represent the residents of the Central Coast in the wake of the mishandling of the recent debacle on the F3, which was a road transport disgrace?

The Hon. IAN MACDONALD: I will take that question on notice.

HEALTH SYSTEM REFORM

The Hon. MICHAEL VEITCH: My question is addressed to the Treasurer. Will the Treasurer update the House on reforms to the New South Wales health system?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his interest in this matter. Yesterday Premier Keneally signed an historic plan that will ensure the strength of the New South Wales health system into the future and better outcomes for the people of New South Wales.

The Hon. Christine Robertson: Point of order: I am having difficulty hearing the Minister's answer.

The Hon. Melinda Pavey: Further to the point of order: Madam Acting-President, you might like to point out to the Treasurer that you are there and the cameras are at the other end of the Chamber. Maybe the Treasurer should address his answer to you.

The ACTING-PRESIDENT (The Hon. Kayee Griffin): Order! I too would like to hear the Treasurer's answer, which I cannot hear because of the level of noise in the Chamber.

The Hon. Melinda Pavey: Do you want to see his face?

The ACTING-PRESIDENT (The Hon. Kayee Griffin): Order! I can see the Treasurer's face.

The Hon. ERIC ROOZENDAAL: After a long period of negotiation between the Commonwealth and the States and intense discussions at the Council of Australian Governments meeting over the past two days, the hardworking Premier has secured a deal that will deliver for New South Wales families an additional \$1.7 billion over four years or \$6.6 billion over 10 years. I understand that members opposite are embarrassed by, and feel uncomfortable about, the great deal that Premier Kristina Keneally has achieved for the people of New South Wales. As a direct result of the negotiations between the Premier and the Prime Minister over the two days of the Council of Australian Governments meeting, \$4.9 billion has been guaranteed for funding growth in health into the future, a pooled funding arrangement with new guarantees to protect States and Territories—

The Hon. Michael Gallacher: Point of order: Standing Order 85 clearly states that a member who wishes to speak must rise in his place and address the President, not show contempt by showing the back of his head. It is an accepted practice in this House that the member speaking addresses his comments through the Chair. It has been drawn to the Treasurer's attention but he is ignoring the ruling. He is not showing courtesy to the Chair.

The ACTING-PRESIDENT (The Hon. Kayee Griffin): Order! The standing orders require the member with the call to address his or her comments through the Chair. However, the member with the call is not required to look directly at the Presiding Officer when he or she is addressing the Chair.

The Hon. Michael Gallacher: We can debate that one.

The ACTING-PRESIDENT (The Hon. Kayee Griffin): Order! The Leader of the Opposition can debate what he likes: that is my ruling.

The Hon. ERIC ROOZENDAAL: I will go through the details of what the Premier has achieved for the people of New South Wales: \$4.9 billion in guaranteed funding for growth in health costs into the future, a pool funding arrangement with new guarantees to protect the States and Territories and an additional \$722 million for New South Wales to implement the reforms. [*Time expired.*]

The Hon. MICHAEL VEITCH: I ask a supplementary question. Will the Treasurer elucidate his comments on health reform?

The Hon. ERIC ROOZENDAAL: I understand that members opposite are feeling uncomfortable today. We have seen Barry O'Farrell flip-flop a number of times on what he would do about health. At first, on 26 March, he said he would support Kevin Rudd's reforms, and on 2 April he demanded that the Government sign up immediately. Then on 14 April he flip-flopped; he flipped it up because he stands for nothing. The reality is that Barry O'Farrell would have signed up for less than New South Wales got through the Council of Australian Governments negotiations. This is a demonstration of why the Liberal-Nationals are unfit to govern. Barry O'Farrell is lazy and he opposes reform for the sake of opposition. That is why even Tony Abbott has acknowledged that Barry O'Farrell is not up to the job and is lazy.

Madam Acting-President, we should remember that Barry O'Farrell was the director of the New South Wales branch of the Liberal Party at the time the Coalition Government was closing hospital beds at the rate of one thousand hospital beds a year. The Coalition Government was closing one thousand hospital beds a year when Barry O'Farrell was the State director of the Liberal Party. Kristina Keneally has achieved more beds for the people of New South Wales. She took three key demands to COAG and essentially got outcomes that are in the best interests of the people of New South Wales. She got guaranteed new money now and after 2014, a pooled funding arrangement and protection from any future GST clawback. That is a major win for families in New South Wales and for the New South Wales health system.

HUNTER VALLEY COAL EXPLORATION LICENCE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Mineral and Forest Resources. Is the Minister aware that during the last parliamentary sitting I asked the Minister representing him, the Hon. Tony Kelly, a question on Doyles Creek mine, which he referred to the Minister, who has so far not answered it? Given this, I ask again: does the Minister recall approving a coalmining exploration licence for Doyles Creek mine in December 2008? Does he recall telling the local community that this mine would be only a training mine? If it is only a training mine, does he find it acceptable that the former head of the Construction, Forestry, Mining and Energy Union, John Maitland, sold \$4.76 million worth of shares in New Coal Resources, which plans to build the Doyles Creek underground mine, for the sum of \$1.14 million? If this is only a training mine, as the Minister said, will he suspend the review? [*Time expired.*]

The Hon. IAN MACDONALD: I thank the member for giving me a chance in this Chamber to put to bed some of the nonsense that has been written about this issue. The Doyles Creek training mine is about improving the safety of mineworkers in New South Wales and I find it ridiculous that anyone can be opposed to that. In accordance with good governance and proper process, the former Department of Primary Industries recommended that this important training initiative—which is aimed at improving the skills base to save lives—go ahead. Right from the beginning it was a recommendation to me from the Department of Primary Industries. An exploration licence was granted to Doyles Creek Mining Pty Ltd in December 2008.

The Hon. Duncan Gay: Do you have a time line?

The Hon. IAN MACDONALD: Just listen. The licence was granted in accordance with the requirements of the Mining Act 1992 in the same way as every other exploration licence in New South Wales. The proposal is supported and was supported by several prominent individuals and groups in the community, including the Hunter Region Westpac Helicopter Service, the University of Newcastle, the Hunter Valley Training Company which is headed by a former Liberal Minister, the Hon. Milton Morris, AO, SkillsDMC, the National Industry Training Council, the Retired Mine Workers Association, Sparke Helmore—

[*Interruption*]

You will have two minutes to ask me a supplementary question. The proposal was also supported by Sparke Helmore lawyers, Slater and Gordon lawyers, the Construction, Forestry, Mining and Energy Union, the United Mineworkers of Australia, the Australian Council of Trade Unions, Hydromining Australia, Xtrata Coal, Donaldson Coal, Felix Resources, and a number of local members of Parliament, including Federal member Greg Combet, Kerry Hickey and Robert Coombs. They are some of the people who advocated for this project. Recently I learned about the shareholding when I read the paper. I found that shares in this project are held not only by Mr John Maitland but also Nick Farr-Jones, the foreshadowed candidate for Wentworth, who had a much larger component of shares, lots of shares. This project is supported on both sides of the political divide, including Milton Morris and the former Liberal staffer, Greg Barnes.

A formal community consultation committee has been established with Mr Jock Laurie as Chair. Three meetings have been held since last November. I am advised that the company involved actually began community consultation of its own volition prior to the grant of the exploration licence. The exploration licence is the first step in ascertaining whether there are enough coal resources to support the proposed \$200 million Doyles Creek Training Mine project which aims to be a centre of excellence in mining, training, education and research. The exploration licence, I might add, is subject to strict conditions relating to environmental management and a landholder liaison program. There is also a need to meet financial commitments to the State. A key element is the company's commitment—mandated in the licence conditions—to establish a training mine to help improve the safety of mineworkers. The proposed underground training mine is vital to help prevent accidents like the recent one in the United States of America where water entered the mine killing many workers. Such a facility is absolutely important and it is supported by industry, trade unions and organisations within the Hunter that are concerned with mine safety. [*Time expired.*]

STATE BORROWINGS

Reverend the Hon. FRED NILE: My question without notice is addressed to the Treasurer. Does the New South Wales Government now have large borrowings of more than \$50 billion? Does the Federal Government, including the new Federal-New South Wales health billion dollars funding program, have a total debt of more than \$160 billion? Which Australian or foreign banks are providing the majority of those loans? In which nations are the main banks located? Is the Treasurer concerned about the possible political influence of foreign banks, especially if they are government owned such as in China or Saudi Arabia? Is the Treasurer concerned about this State's ability to repay those large loans?

The Hon. ERIC ROOZENDAAL: I thank the member for his interest in the debt levels of New South Wales. At the outset it is worth saying that obviously we manage our debt levels within the confines of the triple-A credit rating. The credit rating was improved at the last budget when it took us off negative outlook to a triple-A credit rating. Where we raise the funding for our debt levels will be seen in the next budget that I will bring down, and in the forward estimates. We raise our funds from a number of sources around the world including sovereign government funds in a number of countries and from a number of wealthy investors. We effectively sell our bonds in a number of different locations internationally around the world—Japan, China, London and the United States of America. It is a very broad market. New South Wales bonds are considered very strong for sub-regional fundraising. The fact that we protected our triple-A rating during the global financial crisis underlines the strength of our fundraising and we have been very successful. If the Reverend the Hon. Fred Nile wants further details about who buys our bonds internationally I am more than happy to provide that. Obviously we roll over the program so we have bonds of different ages that mature at different points in time. I am more than happy to provide further information should the member require it.

COURT SECURITY

The Hon. SHAOQUETT MOSELMANE: My question is addressed to the Attorney General. What is the latest information on the security of New South Wales courts?

The Hon. JOHN HATZISTERGOS: Courts are places for the orderly resolution of disputes and people have a right to feel safe in courthouses. That is why Sheriff's officers carry batons, capsicum spray and handcuffs and have the power to confiscate prohibited items, such as weapons, give directions, make arrests and use reasonable force. The duress and intruder alarm systems of New South Wales courts are now connected to the Sheriff's Operations Centre at Parramatta, which is staffed 24 hours a day, seven days a week. X-ray machines and walk through metal detectors operate at the State's busiest courthouses and portable screening

devices can be deployed to any other court in New South Wales in anticipation of a high risk matter. Moreover, the New South Wales Sheriff's Office is updating its security procedures to ensure it is best equipped to maintain safety in courts and respond to new challenges. These changes to procedure are based on key recommendations made in a comprehensive report on court and judicial security in New South Wales recently completed by the chief executive officer of the New South Wales Supreme Court.

Recommendations being implemented include: expanding to all judicial officers the existing program under which the Sheriff's Office gives all new magistrates a personal security briefing and advice on appropriate security measures they should take; reviewing the suite of communications and client service training courses currently offered to Sheriff's officers and court employees to ensure they include material on dealing effectively with young people and people who have mental health issues, intellectual disabilities and communication difficulties; conducting annual reviews of each court security plan by the local registrar and a senior Sheriff's officer in light of the reported security incidents and any environmental changes; ensuring all reviews into court and judicial security are undertaken in an occupational health and safety context, and reviewing juror security information.

In addition, a statutory review of the Sheriff's Act 2005 and the Court Security Act 2005 will be conducted later this year. Once those reviews are completed, the Government will be in a position to determine whether further changes are required. I ordered the security review in October last year following reports of a rise in threats against judicial officers. At the time I was also interested to hear that in a rare showing of initiative, the Opposition had put forward its own proposal for dealing with the issue. On 18 October 2009 the member for Epping Greg Smith said on Channel 9:

... there's not as many counter staff or other staff who could get in and help if there is trouble.

To suggest that court registrars and clerical staff should intervene in dangerous security incidents is irresponsible. John Cahill, the General Secretary of the Public Service Association, summed it up best when he said:

The appropriate staff to deal with violence in our courts are court escort security officers and sheriffs officers. Greg Smith's proposal for registry staff to intervene in violent incidents is fundamentally dangerous and would expose those staff to serious injury.

For someone who never hesitates to call attention to his former life, it is disappointing that the member for Epping has such a poor grasp of operational and security needs of the courts he used to frequent.

BULLI COAL SEAM PROJECT

Ms LEE RHIANNON: I direct my question to the Minister for Planning. Given that BHP Billiton's proposed Bulli Seam Coal Project to carry out longwall coalmining underneath Sydney's water catchments and the environmentally sensitive Dharawal State conservation area has triggered the Federal Environmental Protection and Biodiversity Conservation Act, because of the many threatened species in the mine area, and considering that BHP Billiton is now required to prepare a full environmental impact statement for the mine proposal, will the Bulli Seam Planning Assessment Commission delay making its recommendations to the State Government until the Federal environment department has completed its assessment?

The Hon. TONY KELLY: My understanding is that they are two totally separate processes. The Planning Assessment Commission should be allowed to get on and complete its process. Whether the commission comes up with the same answer as the Federal environment department is irrelevant. Until such time as a combined assessment process is established there will be different assessment processes. At this stage both organisations will have to make different decisions. Obviously, if one body rules it out, then it is out.

Ms LEE RHIANNON: I ask a supplementary question. If the Planning Assessment Commission recommends part 3A approval of the Bulli Seam Coal Project and the Minister then grants approval to BHP Billiton before the Federal environment department has assessed the mine's impact on threatened species, will this expose—

The Hon. Greg Donnelly: Point of order: The member, who is very experienced, clearly understands that that is a hypothetical question. Under the standing orders, it is out of order. It is hypothetical because she said it is presuming that. So it is a hypothetical question.

Ms LEE RHIANNON: To the point of order: Madam Acting-President, I draw to your attention that this is a supplementary question, building on the response given by the Minister.

The ACTING-PRESIDENT (The Hon. Kayee Griffin): Order! Questions must not contain inferences, arguments, imputations, epithets, ironical expressions or hypothetical matter. Consequently, as the question contained hypothetical matter, it is out of order.

HOUSING FINANCE

The Hon. GREG PEARCE: I direct my question to the Treasurer and refer to my question to him on 10 March 2010, when I unsuccessfully sought a specific response to Australian Bureau of Statistics data showing that seasonally adjusted housing finance commitments for January 2010 had shown a worrying decrease. Is the Treasurer aware that the latest seasonally adjusted housing finance approvals show that construction and purchase of owner occupied dwellings in New South Wales fell a further 5.2 per cent in February 2010, continuing a downward trend since last September, and down nearly 24 per cent from a year ago, and also that dwelling unit approvals fell 14.6 per cent in February, the second highest of any State? Given that the April 2010 CommSec State of the States Report continues to rank New South Wales last economically—last in dwelling starts at 24 per cent below the decade average and last overall—why does the Treasurer not provide answers to questions on the New South Wales economy that acknowledge the poor performance of the New South Wales economy relative to other States and the Australian economy as a whole?

The Hon. ERIC ROOZENDAAL: I like the Hon. Greg Pearce, I really do. He asks interesting questions from time to time and I admire the way he spends many hours carefully going through all the raw data until he can find that little gem and use it, twist it, contort it, and describe it how he likes, to try to talk down the New South Wales economy. I will address the CommSec report. The latest attempt to talk down the New South Wales economy was based on a report by CommSec, which rates the best economy in the country as the Australian Capital Territory economy.

Recently I spent two days in close quarters with people in the Australian Capital Territory. Currently the biggest industry in the Australian Capital Territory is the Council of Australian Governments. With due respect to CommSec, to seriously take a report that says the Australian Capital Territory has the best economy in the country and use that to talk down New South Wales is an indication of how little time the Hon. Greg Pearce spent on looking through relevant statistics. If one is to talk about statistics, and the Hon. Greg Pearce has certainly been doing that, we should talk about the ones that really count. We can talk about a number, including the Australian Bureau of Statistics building activity, which came out on 14 April.

[Interruption]

I know that the Hon. Greg Pearce has been through it to find an independent statistic. Let us talk about a series of indicators that prove that New South Wales is leading recovery in Australia in a number of ways. I will go through some, starting with building activity. The information came out on 14 April, so it is current. The figures confirm that building activity is growing again in New South Wales. In the December 2009 quarter there was \$4.2 billion worth of building, an extra \$131 million on the previous quarter. A strong pick-up in non-residential building activity was recorded, up 12 per cent in the December 2009 quarter. I refer to the Australian Bureau of Statistics housing finance. The New South Wales Government has a number of initiatives in place to help the housing market recover. We have seen improvements over the figures of 12 months ago.

In lending finance there have been strong indications. I could go through every indicator. In the State final demand there have been, again, good numbers for New South Wales. I understand that the Opposition hates good news, and I understand that I have worn them down in my time as Treasurer, right through the global financial crisis, because I always talk about the green shoots of recovery. I want to give the Hon. Greg Pearce his little gold star for trying, because it is important that he ask these questions to show that he is still relevant to the Opposition.

I know it is hard, because they have Barry O'Farrell, that small target Leader of the Opposition, who is criticised by Tony Abbott because he has no policies. He urged us to sign up to the first round of the health reform that would have cost this State \$722 million, which the Premier was able to negotiate at the Council of Australian Governments [COAG]. The geniuses opposite would have signed up on day one, and sat back for the next two days eating scones and biscuits with nothing more to contribute to COAG. That is the difference between the Government and the Opposition. *[Time expired.]*

SUPPORT FOR REGIONAL COMMUNITIES

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Lands. Will the Minister provide details of what action the Government is taking to support regional communities?

The Hon. TONY KELLY: I thank the member for her continued interest in regional New South Wales. I am pleased to inform the House that the Keneally Government is providing \$13.9 million in grants and loans this financial year for State parks, local parks, walking tracks, caravan parks and showgrounds. The funding is provided through the Public Reserves Management Fund, and helps maintain and improve Crown land assets around the State.

The needs of Crown reserves are diverse. For instance, recently I was in Maitland after representations were made to me by the member for Maitland, Frank Terenzini; he is a very good local member who always takes issues in his local community very seriously and always ensures the people of Maitland have a voice in Government. I was in Maitland because Mr Terenzini had lobbied me about the restoration of Les Darcy's grave at East Maitland. That matter would be well known to a councillor from Maitland City Council who might be sitting in the gallery.

The grave is in a Crown reserve cemetery. Les Darcy's grave is of national significance and of particular importance to the people of Maitland. Les Darcy was one of our greatest sportsmen and one of Maitland's finest sons. We need to ensure that this man's memorial—he died very young—and his career are preserved for generations to come. I was glad to be able to announce \$20,000 of public reserves funding to match a contribution from the Department of Planning's heritage branch to restore the grave monument. This is money well spent. The monument over Darcy's grave was the result of efforts of friends and local supporters, so it is fitting that 92 years after his death this Government, at the behest of the local member, will work with the local community to ensure the restoration of this grave site. This is just one example of money from the Public Reserves Management Fund being used to maintain and improve Crown land.

Specification allocations of this year's \$13.9 million budget will be made at various times in coming months and throughout the year. While some of the amounts do not appear to be huge, they do make a difference, particularly to small communities. Whether used to improve the environment, to build new recreational amenities, to purchase new equipment or to pay for maintenance, this money goes a long way in our communities, particularly in regional and rural New South Wales. Some of the funding is directed to local reserve trust boards, many of which are managed by community volunteers who give their time freely and without recompense. Many of the more than 700 reserves have volunteers on their trust boards and many others are managed by councils.

Money from the Public Reserves Management Fund provides for improvements to showgrounds, which are so often the centre of a town's or community's social activities. The grants and loans budget for showgrounds totals \$600,000 this year. So far in this financial year I have announced funding for showgrounds at Ashford, Bathurst, Bellingen, Candelo, Cessnock, Deniliquin, Dorrigo, Gresford, Gunnedah, Inverell, Moss Vale, Murwillumbah, Tenterfield and Walcha. An example of this type of funding was provided at Gresford, where \$18,000 is helping to pay for upgrades to the electrical system in the grandstand, the barbecue bar, the produce and main pavilions and the Stan Kellaheer and secretary buildings. With the Public Reserves Management Fund the community can be assured the Government is looking after the present and future needs of Crown reserves throughout the State.

KINGS FOREST DEVELOPMENT

Mr IAN COHEN: My question is directed to the Minister for Planning. Will the Minister acknowledge that the Department of Environment, Climate Change and Water has continually advised the Department of Planning that its position on the development potential of Kings Forest will most likely result in the local extinction of two threatened fauna species? On what basis does the Department of Planning reject the findings and recommendations of the Department of Environment, Climate Change and Water in relation to environmental zoning in Kings Forest? Will the Minister ensure the advice of the department in relation to Kings Forest is incorporated into the draft local environmental plan prior to approving any changes to the Tweed Shire local environment plan?

The Hon. TONY KELLY: I am the approval authority for the proposed Kings Forest Residential Community Development Concept Plan, as alluded to by the member, as the proposal meets the non-

discretionary criteria of the Major Projects State Environmental Planning Policy that was in force at the time, being residential subdivision into more than 25 lots in the coastal zone. The site is identified as an urban growth area in the Far North Coast Regional Strategy. The subject land has been zoned for urban development since 1988 and is identified in the North Coast Regional Strategy as an urban release area. In November 2006 the site was designated as a State significant site in recognition of the need to find an appropriate balance between urban development and conservation outcomes. Subsequently, the zoning amendments made in November 2006 resulted in a significant increase—some 182 hectares—of land to be set aside for environmental conservation. The former Department of Environment and Conservation supported that outcome.

The concept plan currently being considered by the Department of Planning proposes 4,500 new dwellings, a mixed-use town centre, neighbourhood centre, two public primary schools, business park, golf course, open space and significant environmental protection areas consistent with State significant site zonings. The environmental assessment for the concept plan was publicly exhibited for an extended period of 62 days. A preferred project report has recently been lodged in response to the issues raised by the public, the Department of Planning and 13 other government agencies, including Tweed Shire Council and the Department of Environment, Climate Change and Water. The department is currently finalising its assessment of the application.

A significant number of public submissions raised concerns about the impact of the development on koalas and other wildlife on the site. I understand the proponent has submitted a detailed response in relation to this issue, including a site-specific koala plan of management. I will ensure that the department undertakes a rigorous assessment of this information. I understand that the department met with the proponent and Tweed Shire Council in early February to discuss the development code that will apply to the site. I will make a decision on the proposal only after considering all the issues raised in relation to the proposal.

FLYING FOXES CROP DAMAGE

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for State and Regional Development. Can the Minister detail what assistance his Government is providing to orchardists in the Orange area who are facing crop damage to the tune of millions of dollars because of flying foxes? Is he aware that not only are the flying foxes stripping fruit trees every night but that they are also damaging new buds, and that will mean little crop for next year? Can the Minister explain why his Government has ignored calls from local fruit growers to visit the area, which is not far away from where he might be resident, and see firsthand the devastation that the orchards are suffering?

The Hon. IAN MACDONALD: Who has not visited the area? I go there every second weekend at worst. I also grow apple and cherry trees and I am, like many orchardists, very concerned with the issue of flying foxes. I am no longer responsible for this particular area so I will refer the question to the relevant Minister.

The Hon. Jennifer Gardiner: Why don't you go there and check it out?

The Hon. IAN MACDONALD: I go there all the time.

SILEX SOLAR MANUFACTURING FACILITY

The Hon. PENNY SHARPE: My question is addressed to the Minister for State and Regional Development. Could the Minister please inform the House about Silex Solar's manufacturing facility at Sydney Olympic Park?

The Hon. IAN MACDONALD: Last week I had the pleasure of officially opening the Silex Solar manufacturing plant at Sydney Olympic Park. The facility is the largest photovoltaic cell and module manufacturing plant in the Southern Hemisphere, and Silex Solar is the only Australian-owned manufacturer of solar panels. Silex Solar purchased the plant from BP Solar in June 2009 and their decision to manufacture in Sydney is a significant win for New South Wales as well as Australia. The decision ensures the ongoing operation and development of this important New South Wales facility. It also ensures the retention of key staff and industry experience that might otherwise have been lost overseas.

Efforts made by the New South Wales Government helped the company in its decision to purchase the Sydney Olympic Park facility. Industry and Investment NSW provided financial assistance to the company in

the form of partial tax rebates, which are conditional upon the company achieving employment milestones. This support has clearly been well placed. Already the company has achieved more than double the number of jobs targeted for its first year of operations and it is now expected to employ around 100 people by the end of this year. It is very pleasing to see Silex Solar investing in the skills and ingenuity of our Australian workforce. The Silex team is world class, boasting specialised experts. Some have over 25 years experience in the industry, including experience gained in Europe and the United States. Their skills are now benefiting the New South Wales solar industry and the broader Australian economy.

Silex Solar is not only leading New South Wales' solar development, but it is also demonstrating national leadership and commitment to the Australian solar industry. The company recently purchased the assets of Solar Systems Group, a Victorian-based company that has developed and demonstrated utility-scale solar power generation technology to be used at Robinvale, if I remember correctly, in a major 150-megawatt solar complex.

The New South Wales Government has shown leadership in supporting the solar industry. Our Solar Bonus Scheme, the gross feed-in tariff, delivers the most effective and generous rebates in Australia. New South Wales households are paid 60¢ for every kilowatt hour of renewable energy they generate. For the first time it is now affordable for both families and small businesses to invest in solar energy. The New South Wales Government is continuing to pursue renewable and clean energy investments for New South Wales.

Over the past 18 months our efforts have seen almost 2,000 megawatts of new gas and wind generation come online. The Government has also introduced a package of planning policy reforms to attract green investment and to create jobs across New South Wales. These measures include financial incentives for renewable energy projects, dedicated resources to assist renewable energy investors, and a precinct advisory committee in six renewable energy precincts. These initiatives, in addition to the adoption of a 20 per cent renewable energy target in the updated State Plan, will drive major new investment in the generation of renewable energy.

GOOLAWAH ESTATE DEVELOPMENT

Ms SYLVIA HALE: I address my question without notice to the Minister for Lands. Yesterday, in answer to a question I asked about Goolawah Estate, the Minister said:

Currently there is no other land available in Crescent Head for development.

Is the Minister aware that a local developer, Portofino Enterprises Pty Limited, is awaiting Kempsey Shire Council's approval of an application to rezone cleared land currently zoned rural residential to urban residential that, if approved, would release somewhere between 111 and 150 blocks for residential development? In light of the statement last week on ABC Radio by the general manager of Kempsey Shire Council that the Department of Planning is stalling the approval of the rezoning of this cleared land, will the Minister withdraw the department's application to subdivide sections 3 to 5 of Goolawah Estate?

The Hon. TONY KELLY: I refer the member to the answer that I gave yesterday at the end of question time in response to her ridiculous question. I said then—the member quoted my statement earlier—that no other land is currently available.

NSW LOTTERIES SALE

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Treasurer, who we are pleased is back in the Chamber. When he stated at his press conference that proceeds from the sale of NSW Lotteries were beyond market expectations, was he aware that that was because unclaimed prizes were sold without competition despite it being contrary to his own legislation? Will he explain to the House how he decided that the \$150 million paid for the lotteries unclaimed prize revenue was sufficient when a prominent market analyst suggested it was worth \$200 million? Given that legal advice from a partner of a leading Sydney law firm stated in relation to the Minister's lotteries legislation that "the Minister can't override a mandatory requirement in the Act to pay unclaimed prizes into the Consolidated Fund", will he now amend the legislation that he put in place to sell the lotteries?

The Hon. ERIC ROOZENDAAL: I welcome an opportunity to say a few words about the sale of NSW Lotteries as we have heard an unprecedented amount of unsubstantiated rumour and seen an unprecedented amount of muckraking by Opposition members in relation to this transaction. Let me put it into perspective for the benefit of members opposite. Independent probity organisation officers have been involved in every step of this transaction from the day that it was announced until the day that it concluded.

The Hon. Matthew Mason-Cox: Will you table the report?

The Hon. John Hatzistergos: It is on the Internet. I released it.

The Hon. ERIC ROOZENDAAL: I acknowledge the comments that have been made by members on both sides of the Chamber relating to the issue of probity: it is all out there in the open. Let me make a point about probity. No complaint has been made by any of the unsuccessful bidders about the Lotteries sale process. But, of course, if we took heed of the Opposition's muckraking, its deliberate lies and its deliberate attempts to talk down this transaction, it could be said that something untoward had happened, and clearly that has not occurred. After the transaction not one of the unsuccessful bidders put in a complaint through the processes that are available to them and not one of them complained to the probity officers about the transaction.

I want to reflect on the value of what was earned for the people of New South Wales. It has been acknowledged everywhere in the market that proceeds of over \$1 billion is an extremely good return for the people of New South Wales—far above market expectations for the sale of NSW Lotteries over its 40-year licence period. The Government has been honest and clear about this process. I want to talk about unclaimed prizes because it suits Opposition members to talk down that part of the transaction.

The Hon. Matthew Mason-Cox: Your legislation said that you would sell it.

The Hon. ERIC ROOZENDAAL: I appreciate the advice given to me by the Local Court solicitor, but I would prefer to take the advice of experts. The expert legal advice provided to New South Wales Treasury and to the Government is that no legislation requires changing. The sale of NSW Lotteries to the Tatts Group will not result in any significant change to the management of unclaimed prizes. Unclaimed prizes will be used for the promotion and growth of lotteries business for the benefit of players. This will benefit the State through higher government duty. The use of unclaimed prizes will continue to be regulated by the Minister for the benefit of players under the Public Lotteries Act 1996 and relevant regulations. That is the simple answer. This is yet another attempt by the incompetent crew opposite to talk down an extremely successful transaction for the people of New South Wales.

STATE ECONOMY

The Hon. LYNDIA VOLTZ: I address my question without notice to the Treasurer. Will the Treasurer update the House on the latest economic data?

[Interruption]

The Hon. ERIC ROOZENDAAL: Opposition members obviously missed my being in the House yesterday. Well, I am back today to talk yet again about good economic news for New South Wales. Despite Opposition members and in particular The Nationals consistently talking down the economy, I am pleased to report to members that the State's regional areas are continuing to grow and prosper. Recently released Australian Bureau of Statistics [ABS] figures have underlined the continued growth and prosperity of regional areas in New South Wales. Regional population data for 2008-09 shows that over the past year the Hunter grew by 1.3 per cent, more than 8,600 people; the Illawarra grew by 1.1 per cent, more than 5,800 people; the Richmond-Tweed, mid North Coast and northern regions grew by 1.4 per cent, more than 9,800 people; the south-eastern Murray and Murrumbidgee regions grew by 1.3 per cent, more than 6,300 people; and the north-western, Central West and Far West regions grew by 1.1 per cent, more than 3,400 people.

Earlier this month we received confirmation that employment in New South Wales has continued to grow on a trend basis. Trend employment in New South Wales has now grown for 12 consecutive months. Pleasingly, full-time employment has also grown for five straight months. Recently we received confirmation that building activity in New South Wales is growing again. Last week brought the news that building activity in New South Wales picked up by 3.2 per cent in the December 2009 quarter. That means that in the last three months of last year New South Wales saw \$4.2 billion worth of building activity. Non-residential building activity in New South Wales saw growth of 12 per cent for the December 2009 quarter compared to 11 per cent nationally. That means that non-residential building activity contributed over \$2 billion worth of activity into the New South Wales economy in the last three months of last year.

We have also heard further good news about car sales. Late last month—in March 2010—we saw the latest Australian Bureau of Statistics figures for the sale of new motor vehicles. New car sales in New South

Wales were up 0.9 per cent in February this year, while the national average declined by 1.9 per cent. In fact, every State except New South Wales saw a drop in its new car sales for that period. In fact, 26,134 new motor vehicles were sold in New South Wales in February alone—more than in any other State. New South Wales saw 17.3 per cent more sales in February this year compared to the same month last year. The national average was up only 17.1 per cent. This is more good news for the New South Wales economy, for New South Wales families and for New South Wales businesses, and it is yet a further indication that the green shoots of recovery are continuing to flourish in the New South Wales economy.

BALLINA LEASE AGREEMENT

Mr IAN COHEN: I direct my question to the Minister for Lands. In a media release dated 19 March 2010 the Minister described the lease between Ballina Shire Council, the Ballina Croquet Club and Ballina Bowling and Recreational Club as "watertight". Would the Minister describe a lease agreement that might have involved intimidatory behaviours and unconscionable duress and pressure as a basis for a watertight lease? On what basis did the Minister find that the delegated Land and Property Management Authority [LPMA] officer complied with all processes relating to the granting of the lease? What will the Minister do to ensure that the Ballina Croquet Club is not subject to the intimidation and bullying behaviours previously exhibited by the Ballina Bowling Club? The Minister's description of the Ballina bowling and croquet clubs dispute being between rival croquet clubs fails to recognise that one club has been registered continually since 1936 and the other was formed this year. Will the Minister retract his original statement?

The Hon. TONY KELLY: The Ballina Croquet Club is situated on Crown recreation reserve. Ballina Shire Council is the appointed Reserve Trust manager and, accordingly, is responsible for the day-to-day care, control and management of the reserve. The Ballina Bowling and Recreation Club wanted additional bowling greens, so part of that expansion involved moving the croquet facility to a different area on the Crown reserve. The new facility, which includes a new clubhouse and two international-standard greens, was funded entirely by the bowling club at a cost of \$340,000 with the agreement and support of the Ballina Croquet Club. A deed of agreement was negotiated and executed by the bowling club and the croquet club to merge them into one organisation. Hence, through the agreement the bowling club now holds a five-year lease issued from the Reserve Trust—in other words, the council—over the new croquet site and maintains the leased area on behalf of the croquet club.

The lease was issued with the agreement of all parties, including the croquet club. Protection of the sport of croquet has been rigorously addressed through special conditions in the lease. Late last year I was approached by Mary Hughes, current President of the Ballina Croquet Club, requesting to cancel the lease to the bowling club and reissue it directly to the Ballina Croquet Club. Since then I have continued to receive a number of submissions from Ms Hughes, representing a new club executive, and from the Hon. Ian Cohen, MLC, seeking favourable consideration of the request. The matter has been reviewed exhaustively through meetings between the parties involved and Ballina council. Following that review Ballina Shire Council, as Reserve Trust manager, has determined that the current lease arrangements should remain in place and that the Land and Property Management Authority and I should support this view.

It is unfortunate that these lease arrangements do not satisfy the new president of the croquet club. However, I do not believe there are any grounds to warrant intervention. The lease was signed with the prior agreement of the then executive of the croquet club. A change in the executive does not erase or change commitments made by the club's predecessors to the Reserve Trust, Ballina Shire Council, Ballina Bowling and Recreation Club, and the Land and Property Management Authority. If a council enters into a contract or lease with somebody and following a subsequent council election there is a change of councillors, no provision is available to break that contract or lease: it remains in force. The fact that the council executive comprises different people makes no difference at law.

No evidence suggests that the commitments and arrangements that led to the clubs merging, the construction of a new facility and a five-year lease to the bowling club were not entered into in good faith. The five-year lease from the Reserve Trust to the Ballina Bowling and Recreation Club, which is managed by Ballina Shire Council, is valid. The statutory provisions of the Crown Lands Act were observed when my Land and Property Management Authority delegate under the Act formally consented to the Reserve Trust granting the lease. Unless the bowling club agrees to surrender the five-year lease, it remains in force until it is due to expire, at which time Ballina council and the Land and Property Management Authority will consider and determine new occupation and use arrangements.

Investigation into the matter has been a lengthy and costly exercise, but I believe the decision by Ballina council is correct. The interests of croquet playing and spectator members of the local and wider community are well served if the Ballina Croquet Club accepts the outcome and moves forward. I urge the club to do so. A second croquet club of equal membership now also uses the same facility.

SCENIC HILLS EXPANSION PROJECT

The Hon. CHARLIE LYNN: My question is directed to the Minister for Planning. I refer to the Minister's recent decision to declare the Scenic Hills expansion in Campbelltown a project of State significance under the Environmental Planning and Assessment Act 1979. Is the Minister aware of Campbelltown Labor Mayor Aaron Rule's concern that the size of the proposed gas plant does not warrant it being declared a project of State significance? How can the Minister justify his decision to declare the Scenic Hills expansion a project of State significance and thereby take away a final decision about AGL's plant from the elected councillors?

The Hon. TONY KELLY: The current AGL Camden gas project in the Camden, Campbelltown and Wollondilly local government areas consists of approximately 100 gas wells, low-pressure gas gathering lines and a gas processing plant. AGL now seeks to establish stage three of the project, which is a significant expansion to the north. The company has prepared a draft environmental assessment, which is currently being assessed for adequacy by the Department of Planning. A number of government agencies have provided comments to the department regarding the draft environmental assessment, amongst which is one from Campbelltown council. All issues and concerns raised by the council and other agencies relevant to whether the environmental assessment has adequately addressed the department's requirements will be carefully considered prior to public exhibition.

NATIONAL BROADBAND NETWORK

The Hon. HELEN WESTWOOD: My question is addressed to the Minister for Commerce. Could the Minister update the House on how New South Wales is supporting the establishment of the national broadband network?

The Hon. JOHN ROBERTSON: Last month NBNCO, the organisation responsible for delivering the national broadband network, announced its five first release sites. These sites will be the first areas across the country to have the necessary high-speed fibre optic cable rolled out directly to residences and businesses. This trial program is a crucial step in the establishment of the national broadband network as it will help determine how the network is constructed and rolled out. I am pleased to inform the House that in a major coup for New South Wales two of the five chosen sites are located in this State. The first is in the western part of Armidale and comprises around 2,900 premises. The second site captures the two coastal communities of Minnamurra and Kiama Downs, and includes around 2,600 premises.

Each site has been selected because it represents the type of geography, infrastructure, housing, demography and climate that will be encountered across mainland Australia. The program will help NBNCO and all stakeholders understand how these differing conditions will impact on the rollout of the network and develop the most efficient ways of overcoming obstacles. These first release sites effectively will become live trials of the national broadband network by testing new technologies and helping us understand how NBNCO will interact with retail service providers. New South Wales will benefit from hosting two of the first release sites. More than 5,000 residences and businesses in Armidale, Minnamurra and Kiama Downs will become the first to access new high-speed Internet services never before seen on this scale in regional Australia.

The benefits to homes and businesses in these test sites will be extraordinary, giving them a glimpse into the future of Internet access speeds and online services. The Government is working closely with NBNCO to identify areas of collaboration around the first release sites. In particular, the energy utilities in the first release locations—Country Energy for Armidale and Integral Energy for Minnamurra and Kiama Downs—also are working closely with NBNCO and other government agencies to make the most of these opportunities and ensure that the trial program runs smoothly. The announcement of the first release sites complements the work undertaken by the New South Wales Government to prepare this State for the unprecedented opportunities the national broadband network will usher in.

The Government has established the New South Wales National Broadband Network Taskforce to ensure that the State economy is well positioned to take advantage of the economic opportunities the network will deliver. The task force is Chaired by the Director General of the Department of Services, Technology and

Administration and features representation from key government agencies, industry associations and research and development organisations. The introduction of the high-speed national broadband network will deliver Internet capabilities that simply are not available to conventional users currently. The test beds will provide government agencies, businesses and research organisations with an opportunity to develop and trial smart applications for electricity metering, education, health and entertainment on demand. The Government will continue to work with the national broadband company to ensure that the people of New South Wales obtain maximum benefit from this nation building project.

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

YANGA NATIONAL PARK

The Hon. JOHN ROBERTSON: On 17 March 2010 the Hon. Robert Brown directed a question to me, representing the Minister for Climate Change and the Environment, and Minister Assisting the Minister for Health (Cancer). I have received the following response from the Minister for Climate Change and the Environment:

Yanga National Park has been operating within a departmentally approved Interim Management Plan.

Scientific studies, survey work and ongoing discussions with local government, tourism experts, neighbours and Aboriginal groups are being undertaken to provide technical and community input to the formulation of the plan of management.

A draft plan of management is expected to be available around July 2011 for a statutory three-month period community consultation under the *National Parks and Wildlife Act 1974*.

[The Acting-President (The Hon. Kayee Griffin) left the chair at 1.01 p.m. The House resumed at 2.30 p.m.]

MINING AND PETROLEUM LEGISLATION AMENDMENT (LAND ACCESS) BILL 2010

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. Ian Macdonald.

Motion by the Hon. Tony Kelly 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.

Pursuant to sessional orders debate on committee reports proceeded with.

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Order of the Day item No. 1 postponed on motion by the Hon. Lynda Voltz, on behalf of the Hon. Kayee Griffin.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Bullying of Children and Young People

Debate resumed from 17 March 2010.

The Hon. ROBYN PARKER [2.32 p.m.], in reply: I thank all members who contributed to debate of this ongoing issue. In particular I thank members of the committee for spending a great deal of time in a most multipartisan way to address a number of the issues. The report addresses an issue that is important for all society. It is an ongoing problem, particularly instances created by cyber bullying. Increased media attention is being given to the issue, and it is the subject of continuing debate in the community. However, addressing the issue requires an intensified focus on the part of legislators and officers of government departments, such as the Department of Education and Training, as well as on the part of parents, teachers and police officers in their dealings with children and young people.

Bullying is an ongoing issue. The prevalence of cyber bullying is affecting our schoolchildren, both inside school and outside school. What happens in cyberspace after school on one day has an impact on what happens the next day. The impacts of cyber bullying are long lasting and can lead to drastic outcomes. There is an increased prevalence of cyberspace bullying through the use of sexual images. I am pleased to note that the police recently have taken some action to address that issue. To properly address bullying we need education programs on ethics, morals and legalities as well as cause and effect and taking responsibility for children and young people. I look forward to continuing initiatives to address these issues. While I also look forward to the Government and departments taking the issues more seriously, I certainly look forward to the continued rollout and endorsement of successful programs that have been identified in the report. Successful programs include peer support and peer mentoring. One of the most successful programs concerns conflict resolution and restorative practices emanating from the restorative justice model's circle discussion and conversation.

There is a great deal of debate in the community about the introduction of ethics classes as an alternative to scripture classes in schools. I am interested in how ethics classes will affect the issue and deal with issues such as bullying. I suspect they can only assist students and children who are dealing with issues involving interpersonal relationships with other young people. Those who undertake education that is provided in accordance with religious beliefs will deal with those issues as part of their religious education platform, but for others I am sure that will be a strong and recurring theme of ethics classes. An effective approach to addressing the issue of bullying involves the introduction of programs across the education spectre, a whole-of-school of approach, vigilance about bullying, and anti-bullying programs that extend to the home environment.

I commend the report to the House. I thank all those who have contributed to its presentation. I believe the report is something of which the Legislative Council can be proud. From an historical perspective, I believe that people will recognise that the issues raised by the report are important. The Government's response should indicate the approach it plans to adopt to ensure that anti-bullying programs are practical, appropriate and implemented, instead of merely amounting to posters on walls and policies in drawers. I hope the Government will take responsibility for lobbying the Federal Government and agencies that are responsible for social networking sites.

I look forward to progress being made in addressing the issues. The report represents an important body of work on the part of General Purpose Standing Committee No. 2, which has quite a reputation for comprehensive, thoughtful and in-depth reports. I am aware of widespread interest being taken in the results of the report by people from throughout Australia, particularly academics, as well as the United Kingdom and Canada. The House can be justifiably proud of the report. I commend the report to the House. I look forward to a comprehensive response from the Government, and action.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Badgerys Creek Land Dealings and Planning Decisions

Debate resumed from 24 November 2009.

The Hon. JENNIFER GARDINER [2.39 p.m.]: It seems so long ago when we kicked off the inquiry after the dramatic incident on Sydney's North Shore when the Sydney businessman and colourful identity, Mr Michael McGurk, was shot and killed outside his family home on 3 September last year. It was later revealed that prior to his death Mr McGurk had made an audio tape recording of a conversation between himself and property developer Mr Ron Medich in which Mr McGurk had alleged that senior New South Wales Government figures were implicated in bribery and corruption involving land dealings at Badgerys Creek in western Sydney.

The House resolved that General Purpose Standing Committee No. 4 establish this inquiry due to allegations that property developers and their representatives, particularly professional lobbyists, exert undue influence on planning decisions through either having special access to government officials or making political donations. Throughout the inquiry the potential influence of property developers in the planning system was a major focus, and the committee gave considerable thought to developing ways to improve transparency and integrity in planning decision-making. The committee made a number of recommendations to strengthen the regulations relating to contact particularly between planning officials and development proponents and their representatives, as well as contact by registered lobbyists.

The committee has called for wide-ranging reform of electoral funding and particularly the donations side of the funding scheme for New South Wales elections. The committee obviously had an impact because after the committee's public hearings and before the committee reported, the then Premier gave tacit confirmation to the committee's view that substantial and urgent reform is required with respect to the protocols relating to contact between planning officials, property developers and lobbyists, as well as New South Wales political donations and the election funding framework. General Purpose Standing Committee No. 4 referred quite often to the report of the inquiry by the Legislative Council's Select Committee on Electoral and Political Party Funding, which had wide-ranging terms of reference and which produced a range of recommendations with widespread support not only across the parties represented in this Parliament but in the wider community and the media.

The select committee, which tabled its report in the previous year, recommended that the Government introduce major reforms because of the perception that there is a decisions-for-donations culture pertaining to the New South Wales Government under a variety of Premiers. During the work of the select committee the then Premier's response was to set up another parliamentary inquiry into the same topic, that is, campaign financing and political party funding, thereby delaying the implementation of the select committee's recommendations on that topic. Nevertheless, it is obvious that the then Premier realised that the Government had a serious political problem because of the Badgerys Creek inquiry, and Mr Rees made some announcements at the Labor Party conference which took most of his colleagues by surprise. It was a very dramatic day.

This report sets out the timeline for the events in the background that related to the circumstances mentioned in the terms of reference, the Medich site at Badgerys Creek, and the history of major projects and employment lands in western Sydney. In relation to those matters the committee found that under the Environmental Planning and Assessment Act the Minister has the authority to declare, by way of an order, that a development is a part 3A project, but the committee said that the discretion of the Minister to make such a declaration on the grounds that he has formed an opinion to that effect has led to community disquiet that the power has been or may be exercised in a partial manner. The committee recommended that the report of the Legislative Council's Standing Committee on State Development inquiry into the whole of the planning framework, which was underway simultaneously, should be responded to as quickly as possible. That committee has since reported to the Parliament.

On the subject of employment lands in the western suburbs, the committee heard from industry bodies, which illustrated the urgent need to release more employment land in the Sydney metropolitan area, particularly in western Sydney, to support employment growth and economic development. The committee was concerned to hear that witnesses felt that other States are better at integrating their planning system in relation to land release and infrastructure decisions. Therefore, the committee recommended that the New South Wales planning framework be amended to incorporate principles to guide the integration of planning decision-making with infrastructure planning and economic development priorities. We were concerned to hear from respectable witnesses that, as with so many other matters, New South Wales is dragging the chain on an integrated approach to planning. Whether it is the transport portfolio or a whole number of others, it is the same old story: one part of government does not know what the other part is doing.

[Interruption]

We have a good reason. Nevertheless, we manage to communicate quite successfully. On the subject of communications, the committee spent some time examining specific meetings and communications between the main players in the whole saga which surrounded the dramatic events, some of which led to Mr McGurk's murder. We looked at key meetings and communications involving Department of Planning officials in relation to the Badgerys Creek matters. We looked at a series of meetings, particularly those with departmental officers, various Ministers and lobbyists, and we unearthed some interesting practices. One issue that emerged was the reason for due process in relation to meetings because obviously people must have confidence in the integrity of the planning system.

The committee received evidence that the current and former planning Ministers and the director general applied their own protocols to meetings with proponents and their representatives, including professional lobbyists, but it was apparent that no protocols applied to similar meetings with departmental officers. One former Minister for Planning, Mr Sartor, said that with the benefit of hindsight there may be some benefit in the department adopting what he saw as a good practice on his part. He basically agreed with the committee in that regard. That there were no protocols was evident from the fact that a number of meetings between planning officials and the famous, or infamous, lobbyist Mr Graham Richardson were held in coffee

shops. Evidence was given to the committee by one planning officer who said that Mr Richardson and he could not meet in his office because it was too small.

The Hon. Trevor Khan: Perhaps ego was the problem.

The Hon. JENNIFER GARDINER: That was on great display repeatedly throughout the inquiry. The committee noted the evidence that the current and former Minister for Planning and director general of the Department of Planning developed their own practice of meetings with proponents and their representatives but the committee believed that protocols needed to be urgently developed to apply to departmental officers in order to improve the transparency and accountability in the planning system, as well as providing guidance and protection for the officers themselves. The coffee shop meetings between departmental officers and Mr Richardson, the committee believed, raised concerns regarding due process with informal meetings providing an opening for special access to be granted to certain individuals. To prevent the repeat of such circumstances in the future the committee recommended that the new protocols entail guidelines regarding appropriate venues for meetings to be held, such as departmental offices. Proper records of meetings should be kept on file. All meetings with development proponents and their representatives should be recognised as formal activities of the department. The committee also referred to and made recommendations in relation to shortcomings with the lobbyists' code of conduct that pertained at the time. As the committee was preparing its report the Australian Labor Party conference was taking place.

The Hon. Michael Veitch: It was very successful.

The Hon. JENNIFER GARDINER: The Hon. Michael Veitch says it was very successful. It was very successful in many ways. It was certainly the first and last conference addressed by Mr Rees as Premier of New South Wales. I am sure he will never forget it for the rest of his life. During that conference Mr Rees suddenly announced that the Minister for Planning, Kristina Keneally, who was sitting behind him and did not know anything of this, will develop new guidelines to govern meetings held between departmental officers, lobbyists, developers, community groups and opponents of particular projects. He said that the new guidelines will ensure that meetings occur on official premises—he did not actually say "not coffee shops" but that is what he meant—other than those involving site visits, which have to have at least two departmental officers present, that full minutes were to be taken and retained and all meetings and their purposes were to be carefully recorded.

It was obvious that the Premier acknowledged that the work of the committee had exposed these shortcomings in the perceptions, at least, about the planning system and decided to try to pre-empt the recommendations of the committee. The committee looked at other issues that related to departmental processes including the failure to conduct an open tender process for the western Sydney employment lands and made recommendations about tightening up Department of Planning procurement procedures. The committee suggested that the Minister for Planning ensure that development proponents are provided with regular and timely updates on the progress of the proposals so they do not have to keep badgering the Minister or anybody else; they should automatically be able to get progress. The committee also reported on the need for election campaign and donations reforms—reforms which it is still waiting for. Members are waiting for a draft exposure bill to appear.

Reverend the Hon. Fred Nile: Hear! Hear!

The Hon. JENNIFER GARDINER: Reverend the Hon. Fred Nile was on the previous committee. We now have another committee that is waiting for that draft exposure bill. Kristina Keneally must act to clean up New South Wales.

The Hon. GREG PEARCE [2.54 p.m.]: I endorse all of the comments of the chair of the committee and commend the Hon. Jennifer Gardiner for her fine chairmanship again of a very important committee of inquiry. This inquiry arose in circumstances in which a man who is well known to be a criminal of the worst kind made allegations about corruption in this Labor Government. Those allegations from a corrupt criminal who was subsequently murdered were immediately accepted throughout New South Wales, the country and indeed the world as being quite correct. Everyone assumed that after 15 years of this corrupt Labor Government the allegations of corruption by this criminal were correct. And so an inquiry had to be held.

As the allegations were fleshed out a little it became apparent that certain Labor identities were involved in this matter, one being Graham Richardson. Again the very fact that his name was used was simply

accepted by the community as indicating a level of corruption. Then other members of this Government were mentioned—Joe Tripodi, Eddie Obeid, and John Robertson is joining the crew! The community immediately accepted the mere insinuation by this fellow who was subsequently murdered that they were involved, which is a measure of the level of distrust and concern of the community about this Labor Government.

The inquiry proceeded, and I do not need to repeat what the chair has already mentioned, but it involved some very important issues. One of the first things members of the committee did, about which government members were not too keen, was to go on a site visit. When we drove around to Mr Medich's land we saw how far the land was physically separated from the rest of the proposed employment lands. This immediately aroused suspicions as to why land so many kilometres away was included with the employment land. How did it almost get to the point of being rezoned by a former planning Minister?

Employment land is incredibly important for the development of Sydney, and New South Wales for that matter. Yet the resources of the department were diverted by the influence of Labor Party apparatchiks such as Mr Richardson and dragged away from a proper assessment of the employment needs in the area to a consideration of the Labor donor's land. This again is a measure of the extent to which this Government has not only lost its way but is driven in a direction that favours its friends and mates. The evidence about practices in relation to meetings with various outsiders, lobbyists, was quite incredible. If anyone wants to read about how a department should not act then the evidence of the Department of Planning witnesses in relation to coffee shop meetings should be read. One can see the similarity with the kebab shop meetings in Wollongong. The same sort of process occurred with coffee shop meetings in the Sydney central business district to talk about rezoning the land and adding it to the employment lands.

The Medichs were very good participants in the political process. Having made some money, what did they do? They returned it! They returned it as good Labor donors. Over a four-year period prior to the 2007 State election, just when all the decisions were being made about the inclusion of their land in the process of evaluation for rezoning, the Medich Property Group made political donations of \$166,000 to the Labor Party. To balance that off, they donated \$2,500 to the Liberal Party, but nothing to The Nationals. I am pleased to see Ms Sylvia Hale from the Greens is in the Chamber, because she made a dissenting statement. As she was not in the Chamber a moment ago I thought I was going to have to do something quite unheard of: quote from her dissenting statement to make sure it was on record. I am sure she will now do that herself.

During the inquiry I was fascinated when the then Minister for Planning, Crikey Keneally, was asked about various matters including her experience and her qualifications. Ultimately she was asked about the Westminster system, and I will leave it to Ms Sylvia Hale to talk about that. This week we all witnessed the Premier's lack of understanding of not only our political system but also our history. That was seen in the context of the disastrous failure of the Minister for Transport and Roads to take any responsibility for transport issues when, again, the Premier repeated the incredible proposition that Ministers bear no responsibility for the implementation of government policy and the administration of their departments—an absolutely astonishing comment by a Premier and former Minister in the New South Wales Government.

I thank the excellent committee staff. The committee had a pressing timetable and very complicated and difficult issues arose, particularly with Mr Richardson and his approach to the committee and to the requirement that he give evidence and so on. I again thank the members of the committee and the staff.

The Hon. TREVOR KHAN [3.02 p.m.]: I make an observation gleaned from the committee's report, and indeed from the transcript of evidence, about the way that the New South Wales Branch of the Australian Labor Party works. That came not only from the behaviour of Labor Party members and their attempts to protect various witnesses during the hearing, but also from the evidence of some Labor Party members who appeared before the committee. One could go no further in that regard than the good Mr Richardson, who is a perfect and shining example of the expertise of the Labor Right in New South Wales. One imagined that at some stage during the proceedings such other luminaries as the great Stephen Loosley and the like would appear to give evidence before the committee.

Unfortunately, the only little pearl who appeared before the committee was the good Mr Richardson. It was interesting to see how that worked. Apparently the former senator now drifts from one lunch to another and is able to convince property developers that it is worthwhile paying good dollars for him to do nothing. It would seem that for some reason the Medichs were prepared to pay thousands of dollars a month to Mr Richardson for him to occasionally appear and have a chat with someone within the Department of Planning.

The Hon. Michael Gallacher: To have him as a mate.

The Hon. TREVOR KHAN: He is; he is a good mate. The strange fact is that those occasional cups of coffee, the lunch here and there, cost \$5,000 a month, at least. What is that about? What is Mr Richardson saying to the Medichs about this? We never really got a clear explanation, we never actually learnt what value they got for their money, but it is plain that some Labor apparatchiks are able to convince people in our community that they get value for their dollar; that there is some benefit in their work. One is left with two entirely competing alternatives: the first is, of course, the likes of Mr Richardson, who is such a good actor, such a good performer with the Medichs and others, that they dole out money for no good reason at all; and the second is that they are getting value for money.

There is no mid-point. Mr Richardson and those like him are either convincing people within the Department of Planning to do something, or, alternatively, they are taking money for jam. In a sense they are thieving money from business people on the basis of some spurious story that they are doing some good for the businesses of those people. One wonders which it is. One wonders whether Mr Richardson really is that good. The reason that one could come to the view that maybe Mr Richardson is not that good, is—

The Hon. Michael Gallacher: He will be in *Underbelly*.

The Hon. TREVOR KHAN: I am sure he will appear in episodes IV or V; he has to appear somewhere in the series. One is left with the strange fact of Mr Richardson's appearance before the committee on the second occasion. All he had to do was answer some questions on notice. But, no, he wanted his second day in the spotlight. One can remember what that was like—lights, camera, action, and in he strides! The expansive Mr Richardson was so convinced as to his own self-worth that when asked quite simple questions he set forth. Of course, he said that no-one is interested in his dealings with various people. One would have thought that he was political poison for the Labor Party by the time he turned up on the second occasion. One would have thought that as he entered the building we would have seen the rats leaving the ship, running out the back door on the sixth floor.

The Hon. Jennifer Gardiner: Maybe he was getting appearance money.

The Hon. TREVOR KHAN: That would have been an alternative for him to be skinning people in this place. But, no, apparently all the rats remained on the ship—at least on that occasion—and we heard Richo give evidence. Although he said that no-one is interested in what he is up to, quite bizarrely he then proceeded to tell us essentially how he had been meeting with the Labor rats on the Right, as he assisted in sticking the knife into poor old Nathan. It was an amazing piece of hubris, an amazing performance. He was, in essence, quite prepared, with only a little prodding, to start naming the Tripodis, the Obeids and the other rats who all joined together to stick it to poor old Nathan.

That is an example of the Labor Right in New South Wales. That is an example of how corrupt the system has become; they are not even prepared at the end of the day to hide their malevolence under a bush. They are prepared to shout it out for all the world to hear: Stick it to the Left! Stick it to the Left Premier! Because that is what the Labor Right does in New South Wales. Unfortunately, and regrettably for the people of New South Wales, it is a demonstration that the Richardsons, Tripodis and Obeids of this world are still in there pulling the strings and in control of Labor in New South Wales. The inquiry exposed a fundamental fact of life: Labor is rotten to the core in New South Wales because the Labor Right is in control.

Ms SYLVIA HALE [3.10 p.m.]: I must say I was bemused at a budget estimates hearing when one of the members of the Opposition, I think it was Mr Harwin, had the temerity to ask the then Minister for Planning, Ms Keneally, what her experience and qualifications were in relation to planning matters. Ms Keneally told the committee that her experience was that she had read the Environmental Planning and Assessment Act. She did not say she understood the Act, and she did not suggest that she had applied it or was aware of its implications. Her sole qualification was that she had read the Act. I think that is extraordinary.

Anyone who would sit down and read the Environmental Planning and Assessment Act deserves a medal for something or other, but I am not sure that it is a qualification for being the Minister for Planning. Nor am I sure that her qualifications for being the Premier of this State are any greater because clearly she cannot disentangle the presidential system that prevails in the United States of America from the Westminster system that prevails in this country. The difference between the presidential system and the Westminster system is that in the presidential system there is a complete dislocation or separation of the Executive from the Legislature.

Therefore, there is no need for someone elected under the presidential system to take responsibility for the conduct of his or her department or people employed by that department. That is largely because every four years when elections are held those who occupy Executive positions leave, particularly if there is a change of regime. But under the Westminster system a Minister is responsible for the appointment of people in his or her department, because if the Minister is not responsible, then no-one is responsible and ultimately there is no way in which those officials can be held accountable.

The Westminster system is premised upon the accountability of a Minister or a Premier for the activities of public officials who are appointed by that Government or by those Ministers. This is what I think the Premier, when she was Minister for Planning, singularly failed to understand—that the buck stops with the Minister or the Premier. So we have a complete non-understanding of the system that prevails in this country.

The Hon. Trevor Khan: It is called wilful blindness.

Ms SYLVIA HALE: I call it wilful ignorance rather than wilful blindness. The other thing I found quite interesting was that an inquiry that found no overt wrongdoing could lead to so many recommendations as to the way government procedures should be updated. There were in total 11 recommendations, which is quite extraordinary given that the Government maintains there was nothing to be concerned about. I think one must give Mr Richardson credit for an enormous and incredible memory. He found it unnecessary ever to keep a diary or a calendar of events.

The Hon. Michael Gallacher: Isn't it said that you are either a good liar or have a good memory?

Ms SYLVIA HALE: I am not sure whether it is a case of being a good liar or having a good memory. Not only did he not keep a diary or a calendar, according to him, he never issued an invoice for his services. I imagine this would be of some interest to the Australian Taxation Office. The fact that someone is on a retainer of a considerable sum of money and never issues an invoice to his clients would, I think, be worthy of some investigation.

The Hon. Michael Veitch: Did he get his toaster?

Ms SYLVIA HALE: He claimed his toaster. As members may know, the Greens have an annual Bad Developer Award in relation to which we award the "Golden Toaster" to the person who has made a significant contribution to bad planning in this State. We have had a variety of winners. Usually Frank Sartor was a front runner. Last year it was of course Mr Richardson who scooped the pool and was given this much-coveted accolade. I must say he is the only one who has ever asked for the toaster itself. It would cause my office great grief if we actually had to surrender it because our toaster was acquired from St Vincent de Paul and covered in gilt paint, and it now sits in my office as a constant reminder of the appalling history of planning in this State.

The Hon. Michael Veitch: He hasn't got his toaster?

Ms SYLVIA HALE: No, he hasn't. We welched on it. I must confess we have failed to pass it over. Nevertheless the award will surface again in October this year and I think we will look for another suitable recipient. It could well be Mr Richardson again. It may be Kristina. People from Wollongong have won the award, as did the developer of that massive mansion on the harbour that has 26 toilets. We have had a variety of winners. Interesting also, and other members have commented on this, were the donations that were made by the Medich family to the Labor Party. I refer to page 62, paragraph 4.67 of the report. Mr Medich explains his donations by saying, "I have been a supporter of the Labor Party all of my life". He said his father was a Labor Party member for 25 years, that he grew up with Gough Whitlam living around the corner and he was friends with the Bedford family. So the Labor Party was in his blood. It is funny that his enthusiasm for the Labor Party was very confined prior to the Badgerys Creek development. I refer to page 61, paragraph 4.62 of the report, where a submission from the Greens noted that:

...there had been a substantial increase in donations from Medich Property Group in 2005, at the time they were applying for their land at Badgerys Creek to be rezoned:

Electoral Funding Authority records show that at the time the Medich Group was preparing its rezoning proposal and had engaged Graham Richardson as a political adviser and lobbyist, the Group's donations to the NSW ALP increased massively, from an average of around \$7,000 per year prior to September 2005 to a total of over \$200,000 in the three years from September 2005 to September 2008, at an average annual expenditure of around \$70,000 per annum. This represents a tenfold increase ...

Clearly, when he had a major proposal under consideration, Mr Medich's enthusiasm for the Labor Party suddenly ramped up: it increased tenfold!

The Hon. Michael Veitch: But it was not rezoned.

Ms SYLVIA HALE: It was not rezoned. In all seriousness, I think the inquiry showed the reasons behind the considerable level of public cynicism about the planning process in this State. I remember reading an analysis of the Victorian State election in which someone expressed the view that no-one ever lost an election on the basis of a planning decision. One can understand why. Planning decisions tend to ignite a particular community, they are hard fought for and, basically, they are local in their impact. The Government's singular achievement has been to put part 3A of the Act front and centre of the community's dissatisfaction with the planning regime in this State. If there is one thread that runs through all my dealings with the community, it would be the community's utter cynicism at how the system has been ripped off, distorted and subjected to pressures from developer donations. [*Time expired*].

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.20 p.m.] In my opinion, members of this House were very wise when they established the Select Committee on Recreational Fishing, as this inquiry by General Purpose Standing Committee No. 4 was nothing more than a fishing exercise—a failed fishing exercise and a failed fishing trip. The Select Committee on Recreational Fishing might have conducted this inquiry better. The committee set out with something akin to Gilligan's Island—an expedition on a boat with the Hon. Jennifer Gardner as the skipper, the Hon. Greg Pearce as the professor, and the Hon. Trevor Khan as Gilligan. This inquiry was established after media reports about the death of Michael McGurk and much ado about an audiotape recording of a conversation between Mr McGurk and Mr Ron Medich.

As the media hype and frenzy increased, Opposition members were keen for this inquiry to progress. We even had alleged sightings of Michael McGurk in the New South Wales Parliament days before his death. Using the fishing trip analogy, it could be said that there were severe weather warnings before we set out on our journey. The crux of the allegations was the supposed windfall profit that the Medich brothers would have achieved if a parcel at Badgerys Creek were rezoned. At the time of the inquiry that land was still to be rezoned; it had not been rezoned. There was heightened media scrutiny of this inquiry. Indeed, the Opposition dropped the Hon. Trevor Khan, its grenade thrower, into the public hearing arena. It is a shame that he forgot to pull the pin on some of the grenades before he tossed them!

Towards the end of the inquiry even Opposition members of the committee seemed a bit reluctant to participate. They seemed keen to call off the fishing trip, as there was no catch, and to move off to other waters to try their luck. It is important to highlight that at the time of this inquiry other inquiries were also being held. In fact, there was a police investigation into the murder of Michael McGurk; an Independent Commission Against Corruption investigation into the allegations of corruption made by or attributed to Michael McGurk; and the Standing Committee on State Development was inquiring into the New South Wales planning system. Committee members were provided with sobering and salient advice as to exactly what they could and could not delve into—more or less what they could or could not ask. Some of the committee members adhered to that advice but, on occasion, other members pushed the envelope. However, with the majority of committee members a degree of commonsense prevailed.

Rather than continue along on a Gilligan Island-type voyage—a fishing trip—we set out for a much safer course. Anyone reading the recommendations would find that there is a degree of commonsense and no media hype-type wording in the recommendations. I thank the committee secretariat for its efforts during what sometimes were quite trying times. I also extend my appreciation to members of the Hansard staff, who continue to amaze me with the wonderful and professional job that they do. During this inquiry, with an absolute plethora of media in the gallery, there were times when it would have been quite difficult for them to hear or even to record what was being said.

Reverend the Hon. FRED NILE [3.24 p.m.]: I support the recommendations made by the Select Committee on Electoral and Political Party Funding, which I chaired. In recommendation 11 of its report entitled "Badgerys Creek Land Dealings and Planning Decisions", General Purpose Standing Committee No. 4 asked the Premier to adopt the model for funding of the New South Wales electoral scheme proposed by the New South Wales Legislative Council's Select Committee on Electoral and Political Party Funding, and to implement that committee's recommendations in full. The key provisions of the model are as follows: first, to ban political donations by corporations and other organisations; second, to cap individual donations; third, to cap election spending; fourth, to make disclosure of donations and election spending more timely and transparent; and, fifth, to introduce greater policing of the electoral funding scheme and tougher penalties for non-compliance.

The Hon. Jennifer Gardiner, Chair of General Purpose Standing Committee No. 4, said everyone was disappointed that, in spite of that inquiry and public statements by the Government that it intended to implement these recommendations as legislation, nothing has been done. It is not good enough for the Government to try to delay things by saying that it is waiting for the Federal Government to move in this area, as this has to be done nationally. New South Wales acted alone when it introduced the first comprehensive election finance scheme in 1981. On that occasion no-one in the Labor Party said that New South Wales could not move until the Commonwealth Government had acted. In many cases New South Wales has given the lead and it should continue to give the lead in this area of electoral reform. If it had done so, it would have ended all the rumour and innuendo about donations influencing planning decisions and influencing the Government, and lobbyists would not have had an unfair influence on government decisions.

It is in the Government's interests to adopt these recommendations so that donations by corporations or other organisations are no longer made. That will ensure that the planning system is fair and transparent. As the Hon. Michael Veitch said earlier, this inquiry was run by the *Sydney Morning Herald*, which decided to use the death of Mr McGurk for its own interests. It implied on its front-page articles that there was definite corruption; that planning decisions were being influenced by developer donations; and that corrupt deals were occurring behind closed doors. In its report the committee refers on several occasions to public and media perception. In fact, most of the time we were dealing with public and media perception, and then there was the perception of the committee.

The way in which the *Sydney Morning Herald* handled the matter cast a dark cloud over all members of Parliament and over all political parties. It alleged that a certain tape recording contained evidence of a number of things, when there was no such evidence. Apparently Mr McGurk used that device for blackmailing purposes. I place on record my disappointment at the way in which the *Sydney Morning Herald* handled this matter. When there is corruption, a corrupt politician or a corrupt political party we must deal with the facts and not with innuendo and rumour. I commend the committee for its handling of this inquiry. However, I was disappointed by the questioning of Ms Sylvia Hale, who was much more keen to get headlines than to deal constructively with witnesses and with evidence.

The Hon. JENNIFER GARDINER [3.28 p.m.]: in reply: I thank all those who contributed to this take-note debate; it was good to have all sides of the Parliament represented. I thank the committee secretariat for its assistance. Quite a lot of people were involved in supporting the committee in its work. In some respects it was a challenging inquiry so their assistance was greatly appreciated, as it always is. I concur with the statements made earlier by other members who thanked Hansard staff for the terrific job that they did.

I thank all my committee colleagues. We all agreed that the inquiry was interesting. Progress has been made in some respects, and although the then Premier was under pressure, he responded. Hopefully, as a result of the committee's work, some improvements have been made to the perceptions of the integrity of the New South Wales planning system. However, as Reverend the Hon. Fred Nile said, we are still waiting for the big picture reform that will do much to clean up the perception of New South Wales politics—that is, the comprehensive reform of political party campaign funding and expenditure. The recommendations of the second parliamentary inquiry, about which we will talk on another occasion, were tabled recently. To some extent that inquiry diverted from the select committee's inquiry on the same topic. We will see how it pans out in the near future. Again, I thank everyone involved in the inquiry for their hard work.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Budget Estimates 2009-2010

Debate resumed from 26 November 2009.

The Hon. JOHN AJAKA [3.31 p.m.]: I thank the committee secretariat for its assistance throughout this inquiry; the then chair, the Hon. Amanda Fazio; my fellow committee members, whose contributions I found both interesting and insightful; and, of course, Hansard. Each and every one of the Hansard staff undertakes an extraordinary job. I am always amazed by how they manage to keep up. I shall refer first to the Local Government portfolio and make a few observations on the committee proceedings. I take

members back to the budget estimates hearing of October 2007 when my colleague the Hon. Melinda Pavey asked the then Minister for Local Government, Paul Lynch, about the Government's response to the final report and recommendations of the Independent Inquiry into the Financial Sustainability of New South Wales Local Government. At that time the report had been available for one year. Minister Lynch stated:

The whole-of-government response is being prepared and we would anticipate, I think, that that will be released reasonably soon.

A year passed and during the budget estimates hearing of October 2008 I raised the same issue with the responsible Minister, the Hon. Barbara Perry, who undertook "to seek further advice about it". Another year passed and, by this stage feeling rather repetitive, I put the same question to Minister Perry during the recent 2009 committee proceedings. The Minister abruptly rebuked me with this comment:

Mr Ajaka, I expect better of you. When did you last look at my website? ... There is a complete response.

During a short break in proceedings I went to the New South Wales Department of Local Government website, where the response had been published on 11 September 2009—two days prior to the hearing in which I put the question to the Minister. Surely one can be forgiven for not continuing to check the website daily in breathless anticipation across the entirety of the three-year period it took the Labor Government to finally respond to the independent report. It beggars belief that the Minister saw fit to criticise the Coalition for discarding its false hope that the Labor Government would respond to an independent assessment in a timely manner. It took the committee three long years to learn what the Government means when it says it will respond to an issue "reasonably soon".

The Minister's responses to questions concerning the 2009 FiscalStar report were of notable interest and in much the same vein as her answers on the independent report. The FiscalStar report examined 100 councils, focusing on their 2007-08 financial statements. The report indicated that 37 per cent were financially unsustainable and a further 16 were on the verge of falling into the unsustainable category. The Government's policies over the past two years saw the number of councils considered to be financially unsustainable increase from 31 to 37. In light of the findings of the FiscalStar report I asked the Minister when the last departmental review of the City of Canada Bay Council was held. The Minister indicated that her department was conducting a Promoting Better Practice review of the council. She stated:

I expect that that will be finished shortly ... When it is ready, it will be ready. I should not say "shortly" ... I am not going to put a time limit on it.

Suffice to say, we are not holding our breath for the results of these reviews. I refer now to the Corrective Services portfolio and shall briefly canvas some issues concerning the haphazard and ill-conceived manner in which the Government announced and commenced the privatisation of the Parklea and Cessnock correctional facilities. The committee closely examined these issues in its twenty-first report on the privatisation of prison-related services and, accordingly, I will focus on the financial and budgetary implications of the Government's failed response. Members will recall that in November 2008 the Commissioner for Corrective Services confirmed that the privatisation would proceed, notwithstanding that the mini-budget, released on the same day as this announcement, was silent on the matter of specific privatisation plans. More than 100 inmates were transferred out of the Cessnock facility under the cover of darkness on the evening of 15 March 2009, supposedly as part of a downsizing process in preparation for privatisation.

On 1 May 2009, while the inquiry was still on foot, and after a number of Cessnock employees had accepted voluntary redundancies in anticipation of the privatisation, the Government announced an abrupt reversal of its plan to privatise Cessnock, attributing the change in its position to economic uncertainty in the region. Whilst the committee supports the decision not to proceed with the privatisation of Cessnock prison, it finds regrettable the circumstances under which the policy was made for a number of reasons, including, firstly, because it would have been more appropriate and responsible for the Government to await the release of the committee's report before reaching a final decision on Cessnock and, secondly, because of the adverse impact the Government's public policy reversal had on many corrective services personnel.

According to the Minister's answers to questions that were taken on notice during the course of the hearing and presented to the committee, 22 Cessnock correctional officers had accepted the offer of voluntary redundancy before the decision to privatise or outsource Cessnock was reversed; 23 correctional officers had transferred from Cessnock prison before the decision to privatise or outsource Cessnock was reversed on 1 May 2009; of the correctional officers who had taken voluntary redundancy, two have returned; and Corrective Services NSW is in the process of arranging for a third correctional officer to re-enter duty. These figures highlight the issue that most concerned me during the committee's hearing on privatisation as well as throughout the budget estimates hearing, that is, the significant and unnecessary upheaval the Government's backflip caused to the lives of those correctional services personnel and the inmates.

The Hon. Trevor Khan: Just appalling, wasn't it?

The Hon. JOHN AJAKA: It was appalling. Sadly, some Government members could not understand that.

The Hon. Trevor Khan: They weren't interested.

The Hon. JOHN AJAKA: They were not interested; nor was the Minister. The last corrective services issue I shall highlight in debate on this report concerns the prisoner escort and court security unit. During the hearing I asked Minister Robertson to indicate what amount of overtime is paid to the prisoner escort and court security unit, which employs approximately 460 persons. I asked whether that amount exceeded the budgeted amount. The Minister took those questions on notice. On reading the answers provided by the Minister's department, I noted its response to this legitimate line of questioning was "This question does not contain a specific period to allow it to be answered."

It is a shame that the Labor Government has an aversion to accountability and transparency—a crisis of conviction—when it comes to addressing corrective services issues in New South Wales. The committee has been nothing but supportive of the Department of Corrective Services in its pursuit of greater operational efficiency, particularly in respect of its prisoner transfer responsibility. It is a shame that there is such great reluctance to assist the committee on simple budgetary issues that will illuminate problem areas and enable us to work towards viable solutions.

I turn now to the Gaming and Racing portfolio. I will briefly highlight some of the more troublesome issues surrounding the Government's list of 48 late-trading hot-spot venues. In December 2008 the Government released a list of 48 venues that had significant measures mandated because of the incidence of alcohol-related violence and assaults at the premises. In June 2009 the Government advised that the Bureau of Crime Statistics and Research would be used to review bi-annually the number of assaults at those premises, on a financial year basis as well as a calendar year basis. My primary concern with the present system is that a bi-annual review process has the potential to significantly hinder the operations, growth and profitability of outlets that work hard during the period between reviews to improve their hot spot status. Many outlets, to their credit, have in fact achieved improvement.

For example, if a venue that is listed as one of the top one, two, or three hot spots were to pitch all its efforts and resources into cleaning up its operations and tightening up its security over a three-months period, it would not receive recognition of its efforts, particularly in the circumstances of a change of ownership, until the next review date—if at all. That is causing a problem. I know of instances in which no credit or recognition is being received for improvement. I am aware of a number of venues that are being judged over a considerable period—in some cases, for years—on their old record when that record does not reflect the current position. If the listed venues submitted development applications to local councils to expand their facilities or alter the use of their premises, their applications would be likely to be treated unfavourably on the basis of outdated and inaccurate rankings. That has actually happened in the case of some venues. Expansion of premises could be delayed for substantial periods, and that will prevent owners from moving on. Having made those observations, I commend the committee's report to the House. I will address points raised by other members during my reply.

The Hon. TREVOR KHAN [3.41 p.m.]: When one embarks upon the process of hearings to examine budget estimates, one sees the true worth of the process. Of course, that is not the case for Government members, who sit blindly, mute, and uninterested throughout the whole proceedings. During estimates hearings, one sees Ministers who are bordering on competent, and those who clearly have been stuck into the position for reasons other than competence and interest in the portfolio. To illustrate the point about Ministers who border on competence, I need to go no further than refer to the former Premier, Nathan Rees. During hearings about the Arts portfolio, he demonstrated passion, commitment and interest, particularly in the area of film, and that differentiated him markedly from many other Ministers. As an example of bumbling incompetence, one only needs to cite ministerial performance during budget estimates proceedings to examine Local Government.

The viability of individual local councils is a matter of vital importance to the State of New South Wales. Judging by the Minister's performance, one wonders whether she had to be steered into the room. The Minister had little or no idea of the concept of running her department or of being responsible for her department. No clearer example can be cited than the insightful and intelligent questioning by the Hon. John Ajaka relating to the viability of councils. The Hon. John Ajaka asked questions about the viability of the City

of Canada Bay Council. He stated, "Let me refer you to a few councils and maybe it will make it easier." He said that because up to that point the Minister had been bumbling along blindly. The method of questioning adopted by the Hon. John Ajaka is somewhat different from mine. One may say that he is pleasant, charming and seeks to cooperatively gain a result from a witness. The Hon. John Ajaka stated:

When was the last departmental review of the City of Canada Bay Council in light of the FiscalStar report, and what was the result of that review?

As all members know, when Ministers attend budget estimates hearings, they do not attend alone. That was certainly the case in relation to the Minister for Local Government, the Hon. Barbara Perry, who was accompanied by a bevy of public servants whose role was to do anything that was necessary—from steering the Minister into the room to getting her a cup of tea. Notwithstanding the presence of all the government officials, what was the Minister's answer? She stated:

We are currently conducting a Promoting Better Practice review of this council. I expect that that will be finished shortly and discussed with the Canada Bay councillors.

That was a typically fobbing-off answer that an incompetent Minister would give, so the Hon. John Ajaka asked:

Can you give me an idea of what you mean by "shortly" so that we do not have to ask the same question each year?

The Minister's response was, "When it is ready it will be ready." Who is this Minister? She should have had a part in *Yes Minister*. She went on to state, "I should not say 'shortly'. But there is a Promoting Better Practice review." The Hon. John Ajaka then asked, "Is it one month, three months, six months?" What was the response to that from the Minister, the Hon. Barbara Perry? "I am not going to put a time limit on it." The Minister gave that response, despite all the public servants, who probably could have answered the question, sitting around her. But, no: she was determined to be controlling during the budget estimates process. The Minister stated:

But there is a Promoting Better Practice review currently with that council that goes across a number of different areas of council operations, including financial [reviews].

The Minister had no idea of what was going on at the City of Canada Bay Council.

The Hon. John Ajaka: Perfect for this Government.

The Hon. TREVOR KHAN: One could come to the view that the Minister's responses were perfect for this Government. The Minister did not answer the questions, did not make any inquiries of her staff and did not take responsibility for her department. The Labor Government's approach to ministerial responsibility is to just stick your hand out for the money, and that will be good enough. But the process of inquiry did not stop there. The insightful the Hon. John Ajaka moved on to Wollondilly. He asked the Minister whether there had been a review and the Minister's response was, "There may have been a Promoting Better Practice review of Wollondilly." There "may have been" a review? That is an answer that is given by a Minister who has no idea of what had been happening at the Wollondilly Shire Council, and moreover had no interest. Budget estimates are a worthwhile process because they demonstrate the competence or incompetence of Ministers. During the Local Government estimates hearing it was made obvious that the Hon. Barbara Perry simply does not cut the mustard.

The Hon. JOHN AJAKA [3.47 p.m.], in reply: I would thank all members who contributed to the debate, but I am not aware of any member, other than the Hon. Trevor Khan, who spoke during the debate—certainly not Government members. The Hon. Trevor Khan puts the position so much better than I do, but the point I make is that Ministers, as demonstrated at each and every budget estimates hearing, are not taking seriously their obligations to assist the committee. Ministers have an obligation to assist all committee members by answering questions appropriately and to the best of their ability. At the very least they have an obligation to answer the question or make a real attempt at doing so. However, that is not what happens. I can provide the House with a good example of their shortcomings.

Ministers seem to want to develop what I call the Minister David Campbell approach to answering a question. It is clear not only that the Minister for Transport and Roads will not answer questions but that his idea of answering a question is to attack the person who asked the question. That is how the Minister for Transport and Roads answers a question. One could ask him a simple question that should elicit a simple answer, but instead he attacks the member who asked the question. I recommend that the Government and its Ministers take

budget estimates seriously and answer the questions seriously so that the Opposition will not have the situation, year in and year out, of having to ask the same questions as were asked last time because they have not been answered. I commend the report to the House.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report: Protection of Public Sector Whistleblower Employees

Debate resumed from 26 November 2009.

Reverend the Hon. FRED NILE [3.49 p.m.]: It is a pleasure to speak on the Committee on the Independent Commission Against Corruption report No. 8/54 of November 2009 on the inquiry into the protection of public sector whistleblower employees. At the outset it must be noted that—this is probably distinct from other committees—committee members had some serious differences of opinion about the conduct of the committee itself, and I will mention more on that in a moment. On the positive side, I am pleased that all 31 recommendations for reform were adopted unanimously by, and have the total support of, the committee. The report is largely a consensus document, but there was a disagreement on committee procedure with regard to the calling of witnesses, that is, who should be called as witnesses and so on. Chapter 1 on page one of the report gives a background to the inquiry, which indicates where the division in the committee occurred. The report states:

- 1.2 On 4 June 2008, the Hon Trevor Khan MLC gave a notice of a motion in the Legislative Council that a select committee be appointed to inquire into and report on "the effectiveness of current laws, practices and procedures in protecting government and parliamentary employees who make allegations against government officials and parliamentarians, with particular reference to the treatment of Ms Gillian Sneddon".

Members will remember that there was quite a lengthy debate in the House as to whether the motion was in order because it sought to appoint a Legislative Council select committee to investigate what was happening in the Legislative Assembly. Under the rules of both Houses, it is not possible for one House to examine matters in the other House. The Legislative Assembly cannot establish a committee to examine the decisions or activities of the Legislative Council; nor can the Legislative Council set up an inquiry to investigate matters in the Legislative Assembly. Consequently, the motion was ruled out of order. The then President, the Hon. Peter Primrose, said:

It is both well established and recognised that the Legislative Council and Legislative Assembly are equal and sovereign Houses of Parliament. As such they have sole cognisance of their operations, including complete autonomy, subject to constitutional constraints, in regard to their procedures, consideration of business, questions of privilege and contempt. This principle is, by convention, extended to the delivery of services to members and the administration of finances and staffing matters.

Therefore, the President ruled that the motion moved by the Hon. Trevor Khan was out of order. The Hon. Trevor Khan then amended the motion to provide that the select committee inquire into:

- (a) the handling of information provided by Ms Gillian Sneddon, a former electorate office secretary, in relation to the conduct of Milton Orkopoulos, including information provided to police and other persons, but excluding any dealings between Ms Sneddon and office holders and officers of the Legislative Assembly, and
- (b) the effectiveness of current laws, practices and procedures in protecting government and parliamentary employees who make allegations against government officials and parliamentarians ...

The Hon. Amanda Fazio took a point of order. The President did not uphold the point of order in relation to the principle of comity, but he ruled that the Hon. Trevor Khan's amended notice of motion was also out of order. Members were in a dilemma as to how to deal with the matter. On 26 June 2008 the Hon. Trevor Khan moved another motion that a Legislative Council select committee be appointed to "inquire into and report on the effectiveness of current laws, practices and procedures in protecting whistleblower employees who make allegations against government officials and members of Parliament but not in relation to actual and alleged conduct of any particular person which involves matters which are the sole cognisance of the Legislative Assembly".

During that debate I anticipated that the validity of the motion would be challenged and to help move the matter along I thought a joint committee that involved members of the other House could deal with the

matter. In discussing this issue with the Clerks and other people, it seemed that one possible approach was to refer the inquiry to the Committee on the Independent Commission Against Corruption rather than establish a select committee. The motion was amended and passed, and forwarded to the Legislative Assembly. The Legislative Assembly passed a similar motion, which meant that a joint committee could freely take into account matters affecting either the Council or the Assembly. Because of that background, several committee members felt that it would be logical for the committee to call Ms Gillian Sneddon as a witness. The committee could call as witnesses departmental officers as well as people who had made submissions in order to follow up on various matters, and the matter of Ms Gillian Sneddon in particular.

However, as the inquiry developed this became a point of contention. Indeed, it was not possible for the majority of committee members to agree on certain procedures, including whether Ms Gillian Sneddon should be called as a witness before the committee. Ms Sneddon made a submission, which was considered by the committee. As a committee member I felt that it would have been helpful if Ms Sneddon had been called before the committee. Perhaps that would have cleared up some of the tension within the committee; I do not believe it would have harmed the conduct of the inquiry. However, the feeling was strong, and there was legal advice that the provisions of the Independent Commission Against Corruption Act governed the Committee on the Independent Commission Against Corruption. The chair's foreword to the report sets out the functions of a joint committee.

The legal advice created some problems for the committee in terms of examining a particular case in detail, because the Independent Commission Against Corruption Act specifically restricts the committee from examining a particular matter. That is how the Act was interpreted, and the committee moved in that direction. As I said, it probably would have helped the committee if Ms Sneddon had given evidence. One positive aspect of the inquiry is that the committee called the Clerk of the Parliament, the Clerk of the Legislative Assembly and the President of the Legislative Council to give evidence. I understand that this is the first occasion on which officers of both Houses had been invited to provide evidence to a parliamentary committee inquiry.

Questions asked of the Clerk of the Legislative Assembly were designed to clarify how the Legislative Assembly managed its staff, including electorate staff, and what was done when a position of a staff member was no longer required. The frank and factual evidence given by the Clerk was of great benefit to the committee. The committee made 31 recommendations that were designed to improve the whistleblower laws, practices and procedure which can be administered and applied over the next five years. All of the recommendations will not take effect immediately but will eventually bring about a more efficient system to protect whistleblowers, whether they are public servants or staff of members of Parliament. That issue was always in the background and was a delicate area for the committee in conducting its inquiry.

In spite of those differences I believe the committee made progress as the 31 recommendations were unanimous. The committee received 64 submissions and took evidence from 34 witnesses during four days of hearings. The committee could not call in the large number of potential witnesses who made submissions due to time constraints which would have delayed the tabling of this report. I was pleased to be a member of the committee. I know some members of the committee are still frustrated by the operation of the committee and no doubt they will speak for themselves in this take-note debate. I believe that every effort was made to handle the inquiry fairly and openly, which resulted in the recommendations being supported unanimously. However, the procedural part of the committee's inquiry did not get unanimous support.

The Hon. TREVOR KHAN [4.02 p.m.]: I firstly must thank Reverend the Hon. Fred Nile for the manner in which he assisted in the establishment of the inquiry. If it were not for his intercession I suspect that nothing would have happened and there still would have been procedural blocks along the way.

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

ROAD TRANSPORT LEGISLATION (UNAUTHORISED VEHICLE USE) AMENDMENT BILL 2010

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Penny Sharpe, on behalf of the Hon. Eric Roozendaal.

Motion by the Hon. Penny Sharpe 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 ordered to stand as an order of the day for a later hour.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business items Nos 1 and 2 postponed on motion by the Hon. Penny Sharpe.

**NATIONAL GAS (NEW SOUTH WALES) AMENDMENT (SHORT TERM TRADING MARKET)
BILL 2010**

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.04 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

The purpose of the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010 is to establish a short-term trading market [STTM] for wholesale gas in New South Wales. The purpose of the bill is to amend the National Gas (New South Wales) Act 2008 to apply national laws, which establish the short-term trading market in New South Wales. The short-term trading market is an important step forward in the development of the gas supply industry in New South Wales. Before turning to the details of the short-term trading market itself, I remind members of the importance of natural gas and gas market reform to New South Wales. New South Wales is unique among the mainland States of Australia as it imports the majority of its gas supplies from other States.

Gas supplies for New South Wales are sourced from the Cooper Basin in South Australia and from gas fields in Victoria, such as Bass Strait. Small amounts of coal seam methane are sourced from reserves located around Sydney. Despite its reliance on gas imported from outside its borders, New South Wales has strong potential for the discovery of significant gas resources in the future and several areas of New South Wales are under active gas exploration. Long distance gas transmission pipelines bring the gas from the production plants located on or near the gas fields into New South Wales and transport it around the State to Sydney and other regional centres. Local gas distribution networks then deliver the gas to individual gas users in those areas.

Gas is an important energy resource for New South Wales. It fuels domestic and industrial needs and is playing an increasingly significant role as a fuel source for electricity generation. Gas is an efficient, clean-burning energy source, and has significant environmental benefits as a fuel for electricity generation given its lower emissions intensity than coal. Over the past 18 months alone, the proportion of gas-fired capacity as a percentage of total installed generating capacity in New South Wales has increased from approximately 1 per cent to approximately 15 per cent. When used for electricity generation, gas produces approximately half the greenhouse emissions produced from burning coal. Against this background, the short-term trading market is a very important step towards the emergence of a national gas market.

There is already a relatively interconnected network servicing the eastern and southern Australian States and Territories such that in most of these States wholesale gas consumers are able to contract for gas from a number of potential suppliers. The establishment of the short-term trading market at distinct hubs in the national gas transmission system at Sydney and Adelaide will complement the competitive wholesale gas market that has operated in Victoria for some years. This will mean that all of the major centres of demand for natural gas serviced by the interconnected gas pipeline system will operate as open and transparent wholesale markets. In time, and as other jurisdictions establish short-term trading market hubs for their wholesale gas supplies, the foundations for a national gas market for the supply of gas to domestic gas users will have been achieved.

The short-term trading market is part of the national energy market reform program, which the Ministerial Council on Energy has been implementing under the auspices of the Council of Australian Governments. In 2004 the Ministerial Council on Energy identified a need for gas market reforms to accelerate the development of a reliable, competitive and secure natural gas market and to further increase the penetration of natural gas. The aim of the reforms was to encourage transparency, new market entrants, investment in gas infrastructure such as pipelines and storage facilities, and to provide a market mechanism to assist in managing supply and demand interruptions.

The Ministerial Council on Energy subsequently established the Gas Market Leaders Group as a key industry reform forum to develop a gas market development plan consistent with Ministerial Council on Energy gas market reform principles. The Gas Market Leaders Group was established with an independent chair and broad representation from all sectors of the natural gas market including producers, transmission and distribution network owners, retailers, market operators and gas users. In 2006 the Ministerial Council on Energy endorsed the Gas Market Leaders Group's gas market development plan, which included a commitment to introduce a short-term trading market.

Similar to the national electricity market, the short-term trading market will create a market for the trading of natural gas at the wholesale level and set an observable spot price for gas. The spot price would apply at distinct hubs in the gas pipeline system. An objective of the short-term trading market is to facilitate the short-term wholesale trading of gas between pipelines, participants and production centres. This opening up of the wholesale gas market will provide improved access to the wholesale gas market for those participants who have previously faced difficulties purchasing gas, such as those retailers who are smaller in size or new entrants. With this expected increase in participation, and ultimately competition, more cost-reflective and efficient gas prices should emerge.

The short-term trading market will not replace bilaterally negotiated long-term contracts, which will continue to form the basis of gas markets and have underpinned development of the gas transmission pipeline system in New South Wales. Rather, it integrates long-term contracts with more transparent pricing and information provision through a flexible, responsive trading arrangement that provides opportunities to both new and established participants. It will allow market participants to undertake short-term trades to better match short-term variations in supply and demand. Consumers, while not directly participating in the short-term trading market, are expected to benefit from market implementation through improvements to security of supply as well as more efficient gas pricing. The short-term trading market will be operated by the Australian Energy Market Operator [AEMO] on a nationally consistent basis regardless of the location of each hub.

The Gas Market Leaders Group established the short-term trading market working group, which was open to all gas industry stakeholders, to develop the short-term trading market design. The working group reported to the Gas Market Leaders Group through the short-term trading market steering committee. This governance arrangement ensured comprehensive industry and stakeholder representation and input throughout the development of the short-term trading market design. The short-term trading market is a market-based wholesale natural gas trading system to be operated by the Australian Energy Market Operator at defined gas hubs initially in Sydney and Adelaide.

The Sydney gas hub will be based on the Wollongong, Newcastle and Greater Sydney metropolitan area natural gas distribution networks, including the Blue Mountains, Central Coast and Hunter Valley regions. The short-term trading market will facilitate the daily trading of gas between market participants and production centres and will set daily wholesale prices for natural gas at each hub. The existing retail gas markets in South Australia and New South Wales will also continue to operate unchanged in conjunction with the short-term trading market wholesale gas market. There will be penalties for things such as suppliers who deliver less gas to market than they agreed to deliver. To ensure that the daily physical demand and supply on each pipeline remains balanced, the Australian Energy Market Operator will operate a market operator service which will inject gas into the system if there is a supply shortfall or take gas from the system if there is an oversupply or demand shortfall.

In New South Wales gas is currently traded through contractual arrangements between gas producers, wholesalers and retailers. Any imbalances in gas supplies, that is gas shortfalls or excess gas, are addressed through various balancing mechanisms contained in the various contracts and the retail market arrangements. These mechanisms inform gas shippers of the amount of gas they are required to inject into the gas system to maintain the security of supply. However, there is limited information provided on gas prices and quantities to allow gas users to respond to gas prices and undertake demand management. The short-term trading market will provide greater transparency and information on gas flows within the system as well as price incentives to better manage those flows in the gas network.

As noted, the principles to guide the gas market development process were initially established by the Ministerial Council on Energy in December 2004. These principles were later augmented by the Gas Market Leaders Group as work on the short-term trading market progressed. These principles were the main form of guidance used during the development of the market design. The process of developing the short-term trading market and its fundamental design has involved rigorous analysis and investigation of a range of issues. During consultation, a number of gas industry participants raised concerns with the market design. These concerns focused largely on technical design issues around market power, arrangements for the provision of balancing gas and the dissemination of gas quality information. Where applicable, these concerns have been addressed by modifying the short-term trading market framework.

The Australian Energy Market Operator is undertaking a final study to assess the final market design and identify any mitigation or ongoing market monitoring measures that may be required after the commencement of the short-term trading market. In addition, the Australian Energy Market Operator and jurisdictional governments will be monitoring the short-term trading market post implementation to ensure that the market design is best suited to deliver the intended objectives and outcomes of the short-term trading market.

As mentioned, the purpose of the bill is to amend the National Gas (New South Wales) Act 2008 to apply national laws, which establish the short-term trading market in New South Wales. This means that, once the bill is proclaimed, the short-term trading market will become the wholesale gas market in New South Wales for trading gas in the Sydney hub, which includes Sydney, Wollongong and Newcastle; the Australian Energy Market Operator will operate the short-term trading market; all retailers and shippers will be required to trade gas through the short-term trading market; and gas industry participants, including those not trading gas through the short-term trading market, can be required to provide information to the Australian Energy Market Operator to assist with the operation of the short-term trading market and provide appropriate information to the market.

Significant preparations within the New South Wales and South Australian gas supply industries are currently underway with a focus for commencing operation of the short-term trading market in mid 2010. The Australian Energy Market Operator is coordinating these preparations which include an extensive industry training program, auditing of participant readiness, and a three-month market trial commencing in March 2010 for all participants to test both their own and the market systems of the Australian Energy Market Operator.

Prior to the commencement of the short-term trading market, the Australian Energy Market Operator is undertaking two separate market studies to ensure the short-term trading market is ready to commence as scheduled and that appropriate monitoring can take place once the short-term trading market commences. As already mentioned, the first of these studies is a three-month extensive market operations trial. This will ensure that the Australian Energy Market Operator and market participants' systems and interfaces are working properly to ensure a seamless transition to the short-term trading market.

The Australian Energy Market Operator is also undertaking a final analysis of the market design. If this analysis identifies any issues the New South Wales Government will work closely with the Australian Energy Market Operator to ensure that they are appropriately addressed. The short-term trading market is an important milestone in the development of a reliable, competitive and secure natural gas market in New South Wales. I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.04 p.m.]: The National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010 proposes legislative amendments to the

National Gas (New South Wales) Act 2008 so that certain sections of the national gas law [NGL] concerning the establishment and operation of the short-term trading market [STTM] can be applied in New South Wales. The short-term trading market aims: to help facilitate the development of more efficient gas markets through providing clear market and pricing signals to existing participants, potential entrants and consumers; encouraging better informed investment and risk management decisions; facilitating trading between shippers and users as well as for gas-fired power generators; facilitating demand side response by users, particularly at times of supply constraints; and enhancing market liquidity.

Once the bill is proclaimed: the short-term trading market will become the wholesale gas market in New South Wales for trading gas in the Sydney hub—Sydney, Wollongong and Newcastle; the Australian Energy Market Operator [AEMO] will operate the short-term trading market; and all retailers and shippers will be required to trade gas through the short-term trading market. The expected benefits for New South Wales gas consumers include more efficient pricing outcomes and increased variety of gas products. For market participants the increased pricing transparency and improved information flows are expected to assist with managing gas flows and allocations on pipelines. The Government maintains that the short-term trading market has been specifically designed to operate in parallel with existing contract and access arrangements, as well as existing retail market rules. The New South Wales Liberals and Nationals do not oppose this bill but I will highlight stakeholders' concerns.

The majority of stakeholders contacted state that the bill is as expected and is seen by members as the mechanics of implementing the outcomes of previous consultation and announcements. Therefore there is no strong opposition to the bill. However, industry raised concerns that this has seen a very expensive implementation and is a very complicated system. Eastern Star Gas supports the bill because it provides an option to sell surplus gas into the Sydney hub. However, it raises concerns that the short-term trading market is complex in both its design and risk for retailers. While most people are unhappy with the design, it is too late to change it. According to one stakeholder the New South Wales Government is not even 100 per cent comfortable with the bill and is in the process of deciding whether to close down the existing New South Wales Gas Supply Continuity Scheme. It is alarming that the Government is not comfortable with this bill, and the Opposition will be watching to ensure consumers are not affected by any impending closing down of the New South Wales Gas Supply Continuity Scheme.

The New South Wales Gas Supply Continuity Scheme was introduced a few years ago to protect consumers from shippers selling their Sydney customers' gas interstate at higher prices. There will be a problem if the Government does want to keep the New South Wales Gas Supply Continuity Scheme going once it starts in June 2010 because it will compete with gas from the short-term trading market. The Opposition will be watching closely to make sure that these changes do not cause an increase in costs for already struggling electricity customers in New South Wales.

The Hon. CHRISTINE ROBERTSON [4.10 p.m.]: I support the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010, which provides long-term benefits to New South Wales businesses and households through the capacity to place downward pressure on gas prices. As well as potentially lower prices, the short-term trading market will also allow greater flexibility in managing gas usage and strengthened gas supply security by improving publicly available information on gas market activities and transparent pricing. Reforms implemented by the Government have already contributed to a transformation of the gas market. Since 2002, when all New South Wales customers were given the opportunity to choose their gas retailer, the market share of the largest New South Wales gas retailer has steadily fallen from 84 per cent to 71 per cent. There are seven active gas retailers in New South Wales. This compares favourably with Victoria, which has eight, and South Australia and Queensland, which have four and two respectively.

The Independent Pricing and Regulatory Tribunal [IPART] notes in its draft review of regulated tariffs released last week that the competitiveness of the New South Wales gas retail market continues to increase. Competition provides benefits to households and businesses through a greater range of products, such as dual fuel billing and more flexible pricing structures. It also ensures that energy prices reflect only efficient costs. This means that businesses will produce goods and services at least cost. Further changes to the market framework—the upcoming implementation of a national licensing regime for retailers and a more transparent gas-pricing framework via the short-term trading market for gas—are expected to bring additional benefits for consumers.

Analysis by the Productivity Commission conducted in 2006 indicates that, with those two initiatives, retail gas prices could be less than they would otherwise be under future conditions. The Government welcomes

measures that will put downward pressure on prices and keep energy affordable for New South Wales businesses and families. The Independent Pricing and Regulatory Tribunal, in reviewing the 2010 to 2013 regulated retail tariffs and charges for gas retailers, has considered the implications of the short-term trading market. IPART's draft report sets the maximum price that can be charged by standard retailers to customers on regulated contracts.

The maximum price is made up of network charges and retail charges. Retail charges comprise a number of components, including wholesale gas costs for purchasing gas through long-term contracts as well as other mechanisms to meet variability in gas demand. Independent analysis prepared by economic consultants McLennan Magasanik Associates, otherwise known as MMA, to assist IPART in its review notes the difficulties in obtaining information from retailers on wholesale gas purchase costs. Even where information can be obtained it is difficult to verify. MMA outlines that there will be negligible costs passed on to customers for market fees and establishing the short-term trading market. MMA is still investigating whether other costs may be incurred.

Gas market contracts are highly inflexible. The short-term trading market [STTM] provides another option for retailers to purchase or sell gas in a more flexible arrangement where there is a transparent price. The flexibility provided by the STTM and the difficulty about understanding retailer costs, given the confidentiality surrounding current contractual arrangements, is recognised by MMA. Its analysis concludes that there is also the potential for rewards to benefit market participants. The development of the short-term trading market has been a key national reform initiative of the Ministerial Council on Energy. It recognises that market arrangements could be improved to better meet the needs of customers.

Large gas users did not support maintaining the current market structure and leaving the gas industry, which is largely privately owned, to bring about new developments to the wholesale gas market structure. That is why the Ministerial Council on Energy has actively driven further developments in the gas market. Large users supported the city gate scheme, the one this bill will implement in Adelaide and Sydney and shortly in Brisbane, as a more flexible arrangement outside the traditional and existing long-term bilateral gas contracts. Chris McPherson, a senior consultant at Energetics, a management consultancy specialising in assisting its clients reduce their energy use and costs, advises that the short-term trading market should bring some transparency to the cost of gas that goes into a business's delivered gas price. He adds that:

It should provide more information, more price competition and potentially opportunities for those businesses who can adjust their gas usage on peak days.

He notes further that if gas is a large part of an energy budget the development of the short-term trading market warrants monitoring. It is widely acknowledged that gas market transparency outside Victoria is poor. In the United Kingdom it has been demonstrated that centralised gas market structures which require greater transparency in information on gas flows provide large benefits to consumers. Studies undertaken after the United Kingdom national gas grid had been operating for a number of years showed overall benefits amounting to hundreds of millions of pounds. These benefits come from better coordination of shortfalls in supply, more efficient risk management and increased competition. A more formal, centralised market structure is what the short-term trading market will provide. I look forward to similar benefits flowing to New South Wales customers.

The Consumer Advocacy Panel, the body established by the Ministerial Council on Energy to grant funding for consumer advocacy and research on electricity and natural gas issues, recently funded a study on gas pricing. This study by Engineroom Infrastructure Consulting conducted in October 2009 notes that government policies such as the creation of the short-term trading market for gas and the establishment of the Australian Energy Market Operator's Gas Statement of Opportunities should improve transparency in the gas industry. The study adds that the full benefits of the short-term trading market will be delivered when the market matures and deepens.

The strength of formal, centralised market structures such as the short-term trading market is that they create liquidity by compelling all network users to offer gas to the market. Markets take time to evolve and for participants to adjust their contractual arrangements. The study notes that over time the number of buyers and sellers in the market will increase. In particular, an increase in the number of gas-fired generators will increase liquidity, because gas-fired generators tend to be more interested in spot trades of gas. The study adds that this will result in an increased interest in spot trading over time from a wider range of participants. For example, large businesses that wish to temporarily cease manufacturing while they undertake factory maintenance or a refurbishment can realise value from the unused gas by selling it through the short-term trading market. Often those businesses are required to purchase fixed amounts of gas, regardless of whether they need it.

The short-term trading market will provide business with the flexibility it needs to minimise its costs. The short-term trading market has been developed using the significant experience built up from more than 10 years of national electricity market and Victorian gas market operations. Given the benefits it has the potential to provide to New South Wales businesses and households, I commend the bill to the House.

Dr JOHN KAYE [4.17 p.m.]: The National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010 authorises the short-term trading market as a wholesale mechanism for trading natural gas in New South Wales. It implements part of a national natural gas market, as authorised by a meeting of the Ministerial Council on Energy. As the Hon. Christine Robertson mentioned, Victoria already has a wholesale natural gas market, but, of course, the Victorian market is much more sophisticated in the way it is designed. Although in a gas market the supply-demand balance is not as stringent as it is in an electricity market, it is not clear that we need the same level of sophistication that is required in an electricity market. That is because there is a certain amount of storage within the natural gas pipelines, so there is not a need to maintain a minute-to-minute or second-to-second, or, indeed, microsecond-to-microsecond balance of supply and demand. There is a question mark over the degree of complexity of the Victorian market as to whether it is needed. Under the short-term trading market bids to purchase wholesale gas and offers to supply into the wholesale gas market will be cleared on a daily basis, be operated by the Australian Energy Market Operator, which also operates the National Electricity Market which runs the grid for most of the east—

The Hon. Duncan Gay: It helps recommend increases in costs for infrastructure.

Dr JOHN KAYE: As the shadow Minister points out, it has also played a role in pushing up infrastructure costs. In New South Wales the Sydney hub will consist of Wollongong, Newcastle and Sydney itself, which make up the existing natural gas distribution networks. This legislation will not change the retail supply arrangements. When a parliament such as this considers any energy market supply arrangements, including a natural gas market, there are a number of tests that we ought to apply to it. The first test is whether the market arrangements actively encourage lower emissions or even the zero emissions alternatives. That is to say, does it seek to reduce greenhouse gas emissions associated with the supply and consumption of natural gas by ensuring that there is at least a level playing field, and if not a level playing field that the playing field is biased in favour of those options that would reduce the State's carbon footprint?

The second test is: What is the impact that any market arrangement will have on low-income household bills, not only during the short-term episodes of high price rises but also during the longer-term sustained price rises? Does it do so by both assisting with tactical demand reductions during the short-term price rises and through longer-term efficiency measures that help households control their bills? After all, the real game in market economics is that where prices go up consumers should have mechanisms for keeping quantities down so that the bill, the amount they actually pay, which is a product of price times quantity, either remains constant or falls. The third test for any market arrangement is: Will it protect all consumers from the market power of suppliers who would use their ability to manipulate prices to boost profits? That is particularly a problem where there is a faulty market design, such as happened in the electricity market in the State of California, or where the market is thin: that is to say, there are not sufficient numbers of suppliers into the market to create a competitive outcome.

The fourth test is: Does it encourage innovation in gas use to reduce demand and greenhouse gas emissions and to develop employment opportunities and economic growth in the emerging low-carbon economy? From what we can tell from the thin details that are available on the STTM, on none of these criteria does a particular market score particularly highly. There has been little conscious thought of energy efficiency or of encouraging tactical demand management. The market itself is more a business-as-usual approach, only more of the business as usual. There is no embedded industry policy that would secure new jobs in an emerging high-efficiency gas industry. As far as we can tell from what is available in the public domain and what has been supplied to us, there is inadequate analysis of the capacity of the relatively small number of wholesale gas suppliers to exercise their market power.

In the case of gas there are two additional features. The first is the likely increase in the use of gas for electricity generation, particularly if the Government goes ahead with authorising two gas-fired base load power stations. The second additional feature is the likelihood of development of a substantial export capacity in either Queensland or New South Wales, or most likely in both, throwing New South Wales residential, business and industrial consumers into competition with overseas users of natural gas, with quite dramatic consequences for wholesale natural gas prices. Another key feature of a natural gas market is the increasing rate of exploitation of a finite supply that will run out sooner or later. As it begins to run out prices for natural gas will increase. When

those factors are combined with natural gas being for many end-use applicants a much lower greenhouse energy form, and indeed in some cases a lower-cost energy form, getting the design of the market right is extremely important.

A key market challenge will be to ensure that any new residential developments will be reticulated with gas, both in the context of export and electricity generation. The Government has repeatedly relied on the words "fuel neutrality" when it has talked about the two new base load power stations that the private sector is supposed to build. The fuel neutrality is claimed to be neutrality between coal and gas as choices of fuel. If indeed 4,000 megawatts of new base load capacity is built there will be a substantial demand for gas and substantial pressure on the market. As base load power stations they will operate probably about 8,000 hours a year. At 4,000 megawatts that is a massive amount of gas, that probably is not there, being taken out of the market.

I suspect we do not need to worry too much about this because it is something of a myth. Gas, even with a carbon price of \$30 a tonne, is likely not to be cost-competitive against coal, which in New South Wales—because of the availability of relatively low-cost coal that is not suitable for overseas export, or would be very expensive to wash to a grade where it would be worthwhile exporting—is a relatively cheap fuel. Unfortunately for New South Wales and for the State's greenhouse gas emissions, if these power stations do go ahead with coal as the fuel we will see a massive increase in the State's greenhouse gas emissions.

The short-term trading market needs to be understood as an experiment in trading of gas in New South Wales in which households and small businesses are in many cases unwitting and unknowing participants. We can only hope that the market arrangements turn out to be successful. We have seen examples of energy market arrangements in California and elsewhere that have gone badly awry because of bad design, inappropriate public consultation on the design and inappropriate small-scale experimentation on the implications of that design. Markets can be deeply unstable and open to manipulation by a relatively small number of dominant suppliers, and even by a relatively small number of dominant purchasers. In either a monopoly or monopsony situation the outcomes can be quite devastating. We can only hope that the New South Wales Government got it right.

The Hon. SHAOQUETT MOSELMANE [4.27 p.m.]: I support the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010, which implements the next stage of development of a more mature gas market. This Government has been a key driver of improvements to the New South Wales gas market structure in recognition of the need to strengthen gas supply security as well as further develop our gas resources. Reforms to date include introducing retail competition, giving households and businesses the option to choose their gas supplier; implementing a gas market bulletin board, providing much-needed transparency to the gas market; simplifying pipeline licensing application processes for construction of new pipelines; and reducing red tape for gas network businesses through the development of a single economic regulator for gas, the Australian Energy Regulator.

A critical consideration in all these reforms is the benefits to consumers and ensuring a robust regulatory framework. That is why since industry presented the proposed design to the Ministerial Council on Energy for approval this Government has worked to refine and strengthen the short-term trading market design. The New South Wales Government has undertaken an independent review of the short-term trading market to identify areas where the design could be further enhanced.

The New South Wales Government has also been working closely with the Australian Energy Market Operator and the Australian Energy Regulator to ensure that the short-term trading market design is robust, the enforcement mechanisms are strong, and the incentives of participants are right. There are strong obligations on participants to engage in fair and honest dealings through the good faith bidding provisions. These provisions require market participants' bids to represent their genuine intentions at the time that they are made. A participant's intent may be inferred from his or her conduct or other relevant acts. These provisions will be monitored and enforced by the Australian Energy Regulator, an independent body responsible for oversight of the market.

The Australian Energy Regulator has experience in regulating a similar provision in the national electricity market. This function has been performed effectively for the past 14 years by the regulator and its predecessors. The provision of sound, timely and accurate information to the market operator is essential to the success of any market. The rules set out a range of requirements for various participants to provide information to the Australian Energy Market Operator. In particular, they set out a clear quality standard that must be adhered to. This provision is enforced by the Australian Energy Regulator, which is empowered to apply penalties of up to \$2 million for non-compliance. A breach of this provision can lead also to court action against a non-complying participant and exposure to liability for information provided negligently or in bad faith.

The market design contains strong incentives to maintain gas supply security equivalent to that provided under the New South Wales Government's Gas Supply Continuity Scheme. Contingency gas arrangements have been fully developed to provide the Australian Energy Market Operator with the power to secure additional gas supplies to the Sydney hub should there be a risk of a supply shortfall. Contingency gas provides an important back-up facility in the unlikely situation that normal, day-to-day operation of the market and associated balancing gas arrangements are unable to match demand and supply. This mechanism provides an additional opportunity for shippers to respond by bidding to supply more gas, or users to be paid to reduce their gas demand. Industry is unanimous in its view that the current short-term trading market arrangements provide appropriate incentives to secure gas supplies.

The contingency gas arrangements, combined with all the other financial incentives contained in the market design, are sufficient replacements of the existing gas supply security arrangements that are currently in force in New South Wales. These market reform initiatives are supported by a strong consumer protection and regulatory framework. Recently this Government made it compulsory for gas networks to be members of the New South Wales Energy and Water Ombudsman Scheme. The Ombudsman provides an independent dispute resolution for customers having difficulty resolving disputes with their energy retailer or electricity or gas network. Gas retailers are also required to develop, implement and publish hardship charters to identify a hardship customer at an earlier stage and to ensure that government assistance can be provided to them where appropriate, in addition to flexible payment options and appropriate financial counselling services.

Residential customers experiencing financial difficulties must now be provided with two offers of assistance under their gas retailer's payment plan over a year before steps are taken to disconnect. The New South Wales Government has been a driver of gas market reforms to ensure that customer protection remains strong. The introduction of the short-term trading market is no different, which is why I commend this bill to the House.

Reverend the Hon. FRED NILE [4.34 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010, which proposes legislative amendments to the National Gas (New South Wales) Act 2008 so that certain sections of the national gas law concerning the establishment and operation of short-term trading markets can be applied in New South Wales. Once this bill is proclaimed the short-term trading market will become the wholesale gas market in New South Wales for trading gas in the Sydney hub—that is, Sydney, Wollongong and Newcastle. In future we will have to be careful when we are using that term, as anyone who has visited country areas would be aware that country people interpret "NSW" as referring to Newcastle, Sydney and Wollongong.

The Australian Energy Market Operator will operate the short-term trading market and all traders and shippers will be required to trade gas through the short-term trading market. Gas industry participants, including those not trading gas through the short-term trading market, can be required to provide information to the Australian Energy Market Operator to assist with the operation of the short-term trading market and to provide appropriate information to the market. The Government has advised us that it believes this will facilitate the development of more efficient gas markets through various positive results such as providing clear market and pricing signals to existing participants, potential entrants and consumers.

I hope that that will not lead to an increase in prices. Recently the Independent Pricing and Regulatory Tribunal announced a 17 per cent increase in gas prices on top of the recent massive 60 per cent increase in electricity prices, which is causing a backlash in the New South Wales community. The Independent Pricing and Regulatory Tribunal is an independent pricing body, but the Government cannot shelve all responsibility for those price increases. The expected benefits to gas consumers in New South Wales will include more efficient pricing outcomes and an increase in the variety of gas products. I will monitor this bill and I trust that those results will be achieved.

The Hon. IAN WEST [4.37 p.m.]: I support the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010. The New South Wales gas market is a significant and growing market. It is essential that the framework for the trading of gas within the market is efficient. The bill will introduce a wholesale market for trading gas at the Sydney hub—Sydney, Newcastle and Wollongong—and facilitate the development of more efficient gas markets. The short-term trading market will provide clear pricing signals to existing participants, potential entrants and consumers. It will encourage more informed investment and risk management decisions, supporting the expansion of the gas infrastructure needed to meet growing gas requirements in New South Wales.

Average daily gas consumption in New South Wales is approximately 390 terajoules. Obviously peak demand for gas occurs in the winter months of June to August, with demand for gas increasing to an average of around 470 terajoules a day, with a maximum demand of around 590 terajoules in a 24-hour period. Approximately 500 large industrial consumers, with most of them operating in the power generation, chemicals, metals and manufacturing sectors, account for about three-quarters, or some 76 per cent, of the natural gas consumed in New South Wales. Residential consumption represents approximately 16 per cent of total demand, with the remaining 8 per cent consumed by the commercial and transport sectors.

During the summer period the average gas consumption in New South Wales is low—at approximately 330 terajoules a day—with a minimum demand of around 170 terajoules a day during Christmas when industrial users obviously suspend their operations for routine maintenance and staff holidays over the Christmas period. Total gas customers have increased from 784,000 in 1999 to approximately 1.1 million in 2009. As demand for gas is projected to grow it is important that we have robust market frameworks, such as the short-term trading market, to support this growth. Understandably, gas is a key transition fuel to a low carbon economy and gas-fired generation will be important for reducing greenhouse gas emissions from the electricity sector.

The 2009 Gas Statement of Opportunities, released by the Australian Energy Market Operator, forecasts an average annual demand growth rate of 2.1 per cent for New South Wales over the next two decades, under a medium economic growth scenario. Gas-based electricity generation is growing at a much faster rate, especially with the commissioning of three new gas-fired power plants with a total capacity of around 1,800 megawatts in the past 18 months. The proportion of gas use for power generation averaged around 11 per cent in 2008-09. However, the volatile nature of gas peaking capacity requirements means that gas demand for electricity generation can be as high as 27 per cent of the total New South Wales daily gas demand. In effect, the increasing presence of gas-fired power stations will mean that the State's daily gas requirements will become far more dynamic than in the past.

The Australian Energy Market Operator forecasts over 5,000 megawatts of gas-based power generation to come on line in New South Wales over the next two decades. Currently, over 4,000 megawatts of gas-fired power stations are proposed for New South Wales. This increase in gas demand and, as mentioned, the increasingly dynamic nature of daily gas demand, requires far more effective arrangements for the wholesale trading of natural gas than are currently in place in New South Wales. Market frameworks like those offered by the short-term trading market will be particularly important in providing a more transparent, flexible, responsive and efficient set of wholesale trading arrangements for gas to support the growth in gas demand.

Growth in gas consumption for generation of electricity also will affect the annual gas demand distribution, with potential for increased gas-fired generation demand in the summer months. This increase in gas demand as a result of increased gas-fired electricity generation will likely require additional investment in gas infrastructure. The short-term trading market, as highlighted in studies undertaken for the Ministerial Council on Energy, will be a crucial mechanism for gas fired generators—both current and future—to successfully manage gas needs. Transmission pipelines transport gas from production centres under high pressure to either the Sydney hub, as the entry point to the low pressure distribution system, or to gas users located on the transmission pipeline. The high-pressure gas transmission network in New South Wales consists of about 4,500 kilometres of licensed gas transmission pipelines. The two main transmission pipelines that bring gas to New South Wales are the Moomba to Sydney pipeline, which extends from Moomba to Sydney, Canberra and Culcairn, and the Eastern Gas Pipeline, which extends from Longford to Sydney and Hoskinstown—the entry point to Canberra.

The Hon. Catherine Cusack: Hoskinstown?

The Hon. IAN WEST: At the Sydney hub, gas leaving the transmission pipeline is metered and the pressure is reduced to allow gas to be transported through the low-pressure distribution system. Yes, Hoskinstown—the entry point of Canberra.

The Hon. Catherine Cusack: I am not familiar with it.

The Hon. IAN WEST: I can assure the Hon. Catherine Cusack that it is there. The Sydney hub gas network is owned by Jemena and provides gas to approximately 1.1 million customers across the Sydney metropolitan area, Newcastle and Wollongong, and to over 20 country centres within the boundaries of those cities. The Jemena gas network consists of approximately 24,000 kilometres of pipelines and supply infrastructure in the distribution system. Information on the capacity availability on pipelines and flexibility to trade this capacity is critical to a well-functioning gas market. The short-term trading market provides improved

information on pipeline availability and flexibility to trade this capacity availability. Providing this flexibility will be an important step toward encouraging new entrants, particularly smaller ones, to the gas retail market in New South Wales.

This bill requires pipelines to provide the market with minimum levels of data within certain time frames. The Australian Energy Market Operator may impose strong financial penalties on pipelines that do not provide the required data in a timely manner. To ensure that future gas infrastructure investment is most effective, organisations such as Jemena and the APA Group will rely on information and price signals such as those that will be provided by the short-term trading market and the gas statement of opportunities to assist in making future investment decisions. I commend the bill to the House.

The Hon. GREG DONNELLY [4.47 p.m.]: I support the National Gas (New South Wales) Amendment (Short Term Trading Market) Bill 2010, which supports the development of a wholesale market for gas at the Sydney hub and is an important next stage in assisting the development of gas resources in this State. New South Wales is the only State to have developed natural gas markets and a distribution system based on supplies from other States. This critical point differentiates our position with other States and Territories. Natural gas was first supplied to Sydney in 1976 when the 1,300 kilometre Moomba to Sydney gas pipeline was constructed and commenced operation. Since then the pipeline network has been expanded to include connections to Victoria and to encompass regional areas including Wollongong, Newcastle, Dubbo, Wagga Wagga and Tamworth.

Despite a reliance on imported natural gas, a significant effort to explore and develop indigenous gas resources in this State is underway. The Camden gas project, located 50 kilometres south-west of Sydney, has completed stage one, which includes 21 production wells, and is now supplying gas to AGL. Stage two is underway and involves constructing 100 wells, which will supply an additional 10 petajoules of gas per year. That is enough gas to supply approximately 400,000 households in this State. Eastern Star Gas Limited's Narrabri Power project is another example of the development of local gas resources. This project will supply gas to the Wilga Park power station.

New South Wales remains highly underexplored for petroleum and gas resources in comparison with other States. The New South Wales Government has worked hard, and will continue to work hard, to change this situation. Over the past 15 years the New South Wales Government has funded three exploration initiatives—the original Discovery 2000 initiative, the successive Exploration New South Wales initiative and finally the current New Frontiers initiative. At the same time important changes have been made regarding acreage management, pipeline licensing and third-party access to essential infrastructure, such as gas pipelines. These regulatory changes have assisted gas explorers and have provided support to pipeline operators for the establishment of the necessary infrastructure to deliver gas to end users.

As a result of these measures, there has been an unprecedented level of exploration activity in New South Wales. Incentives for investment will be further supported by the short-term trading market [STTM], which will provide an avenue for producers to sell surplus gas into the Sydney hub. The expansion of exploration activity is highlighted by a dramatic increase in petroleum title applications in New South Wales over the past few years representing exploration work programs of more than \$40 million per year. The number of petroleum exploration licences in New South Wales has increased from 11 in 1993 to 53 onshore and one offshore up to July 2009, with a number of applications for new licences currently being processed. The impetus for this increased interest is being driven by exploration for coal seam methane, which is an important source of gas and an excellent resource for the State.

As members would be aware, the major coal-producing basins of New South Wales are the Sydney-Gunnedah-Bowen Basin and the Clarence-Moreton Basin along the eastern coast of Australia. It is estimated that the volume of methane that is contained in coal seams is several times greater than the current reserves of natural gas. While New South Wales reserves are smaller than those of Queensland, they are nonetheless still significant. Both AGL and Eastern Star Gas, among many other companies, are exploring the Hunter region and Gunnedah Basin in the north west of the State. Metgasco Limited is exploring for coal seam methane and natural gas in the Casino area in the Clarence-Moreton Basin, with the potential to supply to Queensland where a short-term trading market hub will be established in 2011. Further exploration also is occurring in the Gloucester Basin, with potential to supply the main Newcastle-Sydney-Wollongong gas distribution network.

All of this development is very encouraging and highlights the importance of a well-functioning wholesale gas market in the provision of opportunities for trading the new gas that the seams promise to

produce, and that is exactly what this bill does. The bill is about opening the wholesale gas market in New South Wales to short-term trading. Importantly, a transparent spot price for gas will, for the first time, allow a company to assess the potential for developing its resource and bringing its product to market. The short-term trading market will create opportunities for new gas producers, particularly those with commercial reserves in closer proximity to the major load centres that are encompassed by the short-term trading market hub.

As other speakers have mentioned, this market reform comes at a time of increased emphasis on gas as a significant future fuel for electricity generation. The New South Wales Government clearly recognises the potential of coal seam methane to supply future electricity generation for this State. The bill comes at a very important time for New South Wales. It comes when interest in exploration and gas resource development has never been more intense. It comes after the Government has ushered in important changes to the structure and operation of energy markets. It also coincides with significant reforms to the regulation and licensing of pipelines, and the recognition of gas as an important fuel for a lower carbon economy. In conjunction with all these developments, the short-term trading market represents a very important step forward. I commend the bill to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.54 p.m.], in reply: I thank all members who contributed to debate on the bill. The short-term trading market [STTM] is a centralised market for trading wholesale natural gas. The market will be operated by the Australian Energy Market Operator at defined gas hubs initially in Sydney and Adelaide. The Queensland Government has announced that it will establish a hub in Brisbane. The Sydney gas hub will be based on the Wollongong, Newcastle and greater Sydney metropolitan area natural gas distribution networks, including the Blue Mountains, Central Coast and Hunter Valley regions. The STTM, as it is referred to, will facilitate the daily trading of gas between market participants and production centres, and will set daily wholesale prices for natural gas at each hub.

The existing retail gas markets in South Australia and New South Wales will continue to operate unchanged in conjunction with the short-term trading market wholesale gas market. There will be penalties for such things as suppliers who deliver less than the amount of gas to market that they agreed to deliver. To ensure that the daily physical demand and supply on each pipeline remains balanced, the mechanism known as the market operator service will inject gas into the system, if there is a supply shortfall, or take gas from the system if there is an oversupply or demand shortfall. Contingency gas will provide an additional mechanism to balance physical supply and demand at a hub in the event that the regular gas-balancing mechanisms are unable to provide sufficient gas. That will be different from the current situation.

In New South Wales, gas currently is traded through contractual arrangements between gas producers, wholesalers and retailers. Any imbalances in gas supplies—that is, gas shortfalls or excess gas—are addressed through various balancing mechanisms contained in individual contracts and through the retail market arrangements. These mechanisms provide participants only with information on gas quantities that they are required to supply. In other words, they inform gas shippers of the volume of gas that they are required to inject into the gas system to maintain the security of supply. These mechanisms do not provide for physical gas supplies, nor do they send price signals. There is no high price to encourage gas suppliers to deliver gas to the market or for gas users to reduce their consumption.

Gas market contracts are highly inflexible. Users often are required to take and pay for fixed quantities of gas, regardless of whether they need the gas. A user will have limited opportunity, if any, to sell unwanted gas. The short-term trading market provides more flexible arrangement based on a clear, transparent and observable spot market price. It will allow gas users to respond to gas prices and even receive payment for reducing consumption, when this is necessary. By improving publicly available information on gas market activities as well as providing transparent pricing, the short-term trading market will provide benefits to both businesses and households through lower gas prices, greater flexibility in managing gas usage and strengthened gas supply security. The current market structure does not meet the needs of customers. Large energy users support changes to current gas market structures to improve flexibility and transparency. It is an important next step in the development of a national gas market, which will continue to encourage competition and transform the gas market.

To date gas market reforms has seen the market share of the largest retailer in New South Wales decline from over 90 per cent to 71 per cent. In the Victorian wholesale gas market, the market operator manages both allocation of capacity on pipelines as well as the operation of the market. The market operator, rather than pipeline owners, takes on responsibility for ensuring that the system remains in balance. There is no requirement for transportation contracts to include balancing obligations. Under the short-term trading market,

the Australian Energy Market Operator will manage the market—the trading platform and cash settlements—but not the allocation of capacity on a pipeline. Pipelines will continue to manage capacity allocation. This recognises the different operating and development history of the Victorian market in comparison with other markets, such as Sydney, Adelaide and Brisbane, participating in the short-term trading market.

The short-term trading market continues a New South Wales tradition of energy market reform exemplified by the creation of the national electricity market [NEM] in the 1990s. For more than a decade, the national electricity market has underpinned competitively priced and reliable electricity supplies for consumers in New South Wales and other jurisdictions. The short-term trading market is similar to the national electricity market in that it establishes a mandatory spot market or pool through which transparent clearing prices are derived. The short-term trading market differs from the national electricity market in that the short-term trading market sets the wholesale clearing price only once per day, in contrast to the national electricity market's 30-minute trading intervals, which result in 48 each day, and the short-term trading market operates alongside existing gas transportation contracts whereby shippers can purchase an allocated capacity on a pipeline. In the national electricity market, the physical supply infrastructure is operated as a common carriage model, to which no participant has firm access. That is similar to the Victorian gas market. The differences reflect the significantly smaller size of the gas market, as well as the different operating histories in the market.

The short-term trading market establishes a formal and centralised framework for the wholesale trading of gas. Robust market frameworks that provide clear price signals are important for ensuring that price signals encourage appropriate and timely investment in gas market infrastructure. There was some discussion about the New South Wales gas continuity scheme. The New South Wales Government intends to repeal the Market Operations Rules (NSW Gas Supply Continuity Scheme) 2008 that established the basis for the scheme's operation on commencement of the short-term trading market. The contingency gas mechanism, which addresses the supply shortfalls and system security, together with other financial incentives created by the short-term trading market, constitutes a more than adequate replacement for the gas continuity scheme.

Having two schemes does not double the gas available in an emergency situation. It risks duplication of costs for New South Wales gas market participants and introduces undue complexity. The short-term trading market has a complicated design due to the complicated existing contract market and the main marketing aims of ensuring accessibility, transparency and certainty of supply. The Government is certain about closing the gas continuity scheme. It commissioned a study by Frontier Economics to ensure that this is the right thing to do. The study concluded, with no uncertainty, that the scheme should close on commencement of the new short-term trading market. This conclusion has been widely supported by stakeholders.

Similar to the gas continuity scheme, the short-term trading market has been designed with strong financial incentives to support gas supply security in New South Wales. Under the short-term trading market, the security of gas supply in New South Wales will be addressed directly through penalties for variations in the quantity of gas offered to the market, as well as through the contingency gas mechanism. Contingency gas balances physical supply and demand at a hub if normal short-term trading market mechanisms, including the market operator service, are unable to achieve this balance. It is implemented through an industry consultation procedure and is expected to be needed rarely.

Under the contingency gas mechanism, when a contingency event occurs, the Australian Energy Market Operator will be required to commence a consultation process to determine whether to call for the provision of contingency gas at that hub. Contingency gas arrangements may involve increasing supply and reducing demand in an undersupply situation or reducing supply and increasing demand in an oversupply situation. Gas trading in areas outside the Sydney hub should continue under the existing contractual arrangements. Regional New South Wales gas market participants should benefit from the introduction of the short-term trading market as they can use the price signals and information flows to better inform their gas purchasing and consumption decisions. While the short-term trading market does not operate in regional New South Wales, the strong incentives it creates to maintain gas pressure at the Sydney hub will work to ensure gas supply security in regional New South Wales upstream of Sydney.

Independent analysis conducted in April this year by Frontier Economics specifically considered the implications for regional New South Wales. The analysis concluded that, despite the fact that the short-term trading market is focused on outcomes at the Sydney hub, the contingency gas mechanism will support security of supply both at the Sydney hub and in regional areas. The short-term trading market is expected to put downward pressure on prices. Improved wholesale price signals and increased competition should provide long-term benefits to gas consumers, as well as support large user-demand management measures. The short-term

trading market is an important step towards the emergence of a national gas market. There is already a relatively interconnected network servicing the eastern and southern Australian States and Territories such that in most of these States wholesale gas consumers are able to contract for gas from a number of potential suppliers.

Establishment of the short-term trading market at hubs in Sydney and Adelaide, and next year in Brisbane, will complement the Victorian market. It will mean that all of the major centres of demand for natural gas serviced by the interconnected gas pipeline system will operate as open and transparent wholesale markets. In time and as other jurisdictions establish short-term trading market hubs for their wholesale gas supplies, the foundation for a national market for the supply of gas to domestic gas users will have been achieved. As other speakers have mentioned, gas supplies for New South Wales are sourced from the Cooper Basin in South Australia and from gas fields in Victoria, such as Bass Strait. Small amounts of coal seam methane are sourced from reserves located around Sydney.

Despite its near total reliance on gas imported from outside its borders, New South Wales has a strong potential for the discovery of significant gas resources in the future, and several areas of New South Wales are under active gas exploration. Long-distance gas transmission pipelines bring the gas from the production plants located on or near the gas fields into New South Wales and transport it around the State to Sydney and other regional centres. Local gas distribution networks then deliver the gas to individual gas users in those areas. The short-term trading market will deliver many benefits for businesses and households in New South Wales. It will provide easy, day-to-day access to the price of wholesale gas for shippers, retailers, large users and gas-fired generators, and enable market participants to trade gas to their mutual benefit when they have either more or less gas than they need to meet their obligations on a particular day.

It will ensure that gas is allocated to those users willing to pay for it and delay or even avoid intervention into the market to curtail supply to users when shortages arise. It will provide appropriate market-based signals for new investment in gas transmission pipeline capacity, ensuring that the investment occurs at the right time and in the right amount; and it will complement the Government's retail gas market reforms by opening a market for short-term wholesale gas trades in which small shippers, retailers and new entrants may participate. Gas market reform of this type is also an important part of encouraging the development of new and exciting gas resource discoveries within New South Wales. As others have already alluded to, the bill comes at a time of unprecedented interest in exploration and gas resource development in New South Wales.

The bill provides a unique opportunity to reveal the short-term price of wholesale gas in New South Wales for the benefit of a whole range of parties. Importantly, these parties include new producers developing new resources close to and for supply through the short-term trading market to customers taking supply through the Sydney-Newcastle-Wollongong gas distribution system. I shall deal briefly with an issue raised by Dr John Kaye. The Victorian market has a different design due to the very different fundamentals in that market. It would not have been possible to establish a similar market to that in Victoria without major implications for existing contractual arrangements and possible disruption to businesses. Increasing transparency and encouraging natural gas development to the short-term trading market will help shrink the New South Wales carbon footprint.

The impact on prices is of particular concern to the Government. A well-functioning market will deliver efficient pricing, and the New South Wales Government is determined that the short-term trading market will be a well-functioning, successful market. There will be strong enforcement, monitoring and compliance arrangements to monitor the behaviour of participants in bidding. The market branch of the Australian Energy Regulator monitors gas and electricity markets and will be responsible for monitoring the market when it commences operation. The Australian Energy Regulator will monitor the market from day one. The Australian Energy Regulator continuously monitors activity in the gas and electricity wholesale markets, including bidding and rebidding, despatch and prices, network constraints, and forecasts of demand, production and capacity, and uses this information to assess the compliance of participants with market rules.

The Australian Energy Regulator reports weekly on its monitoring activities and prepares additional reports on significant price variations and high price events. The Australian Energy Regulator is currently developing thresholds for publicly reporting on high-price events in the Victoria gas market. The Australian Energy Regulator proposes to develop similar high-price event thresholds for the short-term trading market within three months of market start once it has had an opportunity to monitor actual market operations. The Australian Energy Regulator, regardless of public reporting on high-price events, will constantly monitor the short-term trading market for significant price variations, bidding behaviour and all other conduct prohibited by the rules, such as making nominations for the purpose of increasing market operator scheme requirements.

The good faith provisions require market participants to engage in fair and honest dealing. These provisions require the bids of market participants to represent their genuine intentions at the time the bids are made. The intent of participants may be inferred from their conduct or other relevant acts. Members may be assured that the Government will monitor the performance of the new market closely to ensure that opportunities for effective competition materialise. Again I thank all members for their lengthy contributions to this debate, and I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

NATIONAL PARKS AND WILDLIFE (BROKEN HEAD NATURE RESERVE) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.10 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

The National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 proposes to revoke six small parcels of land totalling 981 square metres from Broken Head Nature Reserve to enable the land to be transferred to the traditional owners of the land, the Bundjalung people of Byron Bay—the Arakwal people—as part of an indigenous land use agreement with the New South Wales Government. To ensure that national parks and nature reserves are protected in perpetuity, lands reserved under the National Parks and Wildlife Act 1974 may not be revoked, except by an Act of Parliament. From time to time circumstances arise that require the revocation of lands reserved under the National Parks and Wildlife Act. The revocation of lands will generally be undertaken as a last resort and only where appropriate.

Broken Head Nature Reserve lies adjacent to Broken Head Caravan Park. Over time, these small parcels of land have inadvertently become part of the well-established camping area located in the caravan park. This is a very minor revocation proposal and it is entirely appropriate. Broken Head Nature Reserve is a 98-hectare reserve located five kilometres south of the Byron Bay township. It is one of the Byron Coast group of nature reserves that, along with Brunswick Heads and Tyagarah nature reserves, contribute to the unique natural character of the Byron Bay area. The nature reserve is bounded by Broken Head Caravan Park to the north, the Pacific Ocean to the east, Seven Mile Beach to the south, and Seven Mile Beach Road to the west. It protects extensive areas of littoral rainforest, brush box, forests and woodlands, and headland grasslands. It has steep headlands, small coves and beautiful beaches. The area is culturally significant to the Bundjalung people of Byron Bay.

The Indigenous Land Use Agreement between New South Wales and the Bundjalung people of Byron Bay—the Arakwal people—was signed on 20 December 2006. Under this agreement, the Bundjalung people of Byron Bay—the Arakwal people—will surrender any potential native title in the lands and waters in the area around Broken Head, and approximately 70 hectares of Crown land will be added to the national parks system, namely, additions to Arakwal National Park, Broken Head Nature Reserve and Cumbebin Swamp Nature Reserve. Also under the agreement, Broken Head Caravan Park, which is Crown land lying to the north of the nature reserve, will be transferred to the Bundjalung people of Byron Bay.

This outcome is good for Aboriginal communities and for conservation of the State's natural and cultural heritage. It will create employment opportunities for local Aboriginal communities and improve caring-for-country opportunities through co-management of national parks and reserves. It will also complement existing tourism and recreation in the iconic Byron Bay area. Since the nature reserve was established in 1974, the caravan park has inadvertently encroached on the nature reserve in six separate areas, totalling 981 square metres. These small parcels of land are now well-established camping areas and have negligible conservation value for the nature reserve. Under the agreement, the Bundjalung people of Byron Bay will retain ownership of the caravan park for a minimum of 10 years. A covenant on the land title will ensure that it remains a caravan park in perpetuity.

This proposal is essentially a minor boundary adjustment and must be considered in the wider context. In particular, this stage two Indigenous Land Use Agreement with the Bundjalung people will deliver the addition of more than 70 hectares of Crown land to national parks and nature reserves in the area. These small encroachments in six separate land parcels make up only 0.1 per cent of the entire nature reserves. This agreement is the second of its kind in Byron Bay. The first Indigenous Land Use Agreement was signed in 2001 and resulted in the creation of the Arakwal National Park. This was the first such agreement in Australia that created a national park. The National Parks and Wildlife Service and the Bundjalung people of Byron Bay jointly manage the park.

In recognition of its success and significance, the New South Wales Government and the Bundjalung people of Byron Bay were honoured with an award from the World Conservation Union for distinguished achievements in wildlife conservation and for joint management of the Arakwal National Park. The revocation of these small parcels of land from Broken Head Nature Reserve and transfer to the Bundjalung people of Byron Bay as part of Broken Head Caravan Park will enable the implementation of the stage two Indigenous Land Use Agreement and support further Aboriginal co-management of national parks in Byron Bay. I commend the bill to the House.

The Hon. CATHERINE CUSACK [5.15 p.m.]: The purpose of the National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 is to revoke 961 square metres of the Broken Head Nature Reserve and vest the land in the Minister for the Environment under part 11 of the National Parks and Wildlife Act. The Broken Head Nature Reserve was gazetted in 1974, and is an area of 98 hectares. It is a remarkable fragment of littoral rainforest that clings to a series of tall, rocky, windswept headlands—hence its name, Broken Head. It contains many of the trees once found in the famed North Coast "Big Scrub", which used to be a 75,000 hectare forest, including white booyong, rosewood, red bean, red carabeen and yellow carabeen. Fewer than 300 hectares of the Big Scrub remain and although Broken Head Nature Reserve was separated from it by wetlands, it is a marvellous living museum of past rainforest glory.

Broken Head Nature Reserve is of special significance to the Arakwal people of the Bundjalung nation. The landscape is rich in spiritual and cultural significance. Anybody who has visited this spectacular part of our coastline—I understand Hon. Michael Veitch has—will know immediately why it is such a special place. Officially it has one walking track to look out over Kings Beach, the three sisters walking track, which is named from the Dreamtime story of three sisters swimming off the headland. One sister was caught in a rip. The other two went to her assistance. According to legend, all three drowned. The story served to deter Aboriginal children from swimming at this dangerous part of the coastline. However, an unofficial walking track extends the length of the Broken Head Nature Reserve coastline and I have had the privilege of walking it on several occasions.

Kings Beach at the northern end of the reserve is a very beautiful pristine beach surrounded by steep slopes and sheltered gullies, with Bangalow palms that offer wonderful natural shelter from the sun on a hot day. This idyllic beach was very popular with local families until a few years ago when the nudists moved in in large numbers and displaced most of the other users. I cannot help but feel that this takeover of the beach by one group has been regrettable. Last year when I walked the coastline with friends and our young sons we chose winter as a time less likely to encounter the nudists. Unfortunately, the children still stumbled upon some inappropriate scenes that were clearly not legal. The broken headlands along the coast are breathtaking in their beauty, and there are other more isolated beaches one can swim at and enjoy. It is a much-loved jewel on the North Coast and I am delighted it is subject to joint management between the National Parks and Wildlife Service and its traditional owners, the Arakwal people.

Over time the caravan park, which is extremely popular, has encroached on the Nature Reserve. This boundary adjustment proposes revocation of six areas, totalling 961 square metres to officially add what is now

already effectively functioning as part of the caravan park. Following native title claims in 1995 and 1997 a native title agreement, the Arakwal Indigenous Land Use Agreement, resulted from years of consultations between the Arakwal-Bundjalung people and the New South Wales Government through the National Parks and Wildlife Service amongst other organisations, many community groups, and the Byron Shire Council. The revocation is required to implement the Indigenous Land Use Agreement, which will enable the title of the land contained within the working boundaries of the Broken Head Crown Caravan Park to be transferred to the Arakwal-Bundjalung people. The area is already functioning as part of the camping area and it is of little conservation value. The Indigenous Land Use Agreement requires the Bundjalung people to maintain ownership and operation of the caravan park for at least 10 years, and a covenant on the land title will ensure that it will be used as a caravan park in perpetuity.

I take this opportunity to acknowledge the advice and assistance of my local member, the member for Ballina, Don Page. Broken Head Nature Reserve is in his electorate. Don Page is a very diligent, consultative and popular local member who lives up to his motto of "Caring for the coast", through both his warmth and efforts on behalf of his constituents, and the spectacular local environment that he loves and about which he is extremely knowledgeable. The Opposition supports the bill.

Mr IAN COHEN [5.20 p.m.]: As we stand on the land of the Gadigal people of the Eora nation, which we acknowledge in this Parliament, I acknowledge that in this debate on the National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 we are discussing the land of the Arakwal people of the Bundjalung nation. I advise that I will mention Aboriginal people who are deceased. On behalf of the Greens I support the National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009. It is a unique occasion for me to stand up in this House and support the revocation of national park land but, in this instance, the revocation of 981 square metres from the Broken Head Nature Reserve is a necessary step that will enable the finalisation of a long process in relation to the Indigenous Land Use Agreement between the Arakwal-Bundjalung people of Byron Bay and the New South Wales Government.

The Arakwal people are the acknowledged custodians of the Byron Bay area and are committed to maintaining, protecting and managing Aboriginal cultural heritage and the ecological values of the area. They seek to secure a strong future for following Arakwal generations by establishing new opportunities built upon custodianship and stewardship. The Indigenous Land Use Agreement, in all its stages and now in its final steps, has delivered ecological, social and economic outcomes for the local Aboriginal community and the broader community. It is an outcome of which we can all be proud.

The transfer of these six small parcels of land, together less than one hectare, seems insignificant but is a continuation of the historic work that was begun in 1983 when a New South Wales land rights application was made to conserve the sacred Ti Tree Lakes at Broken Head and to seek access by the claimants to their home site at Ironbark Avenue, Byron Bay, where the Arakwal lived until the 1950s when they were coerced to move to the Cabbage Tree Island Mission. In my talks with the Elders, it was simply a demand by the authorities to move out or break up your family. Therefore, they moved.

In October 1994 I sat with the three Elders, Yvonne Graham, Lorna Kelly and Linda Vidler, affectionately known as the Aunties, to hear their story and learn of their claim. At that time I was the Greens candidate for the 1995 State election. The Australian Labor Party was in Opposition and the Greens were in discussion about election priorities. I gave a commitment to the Elders that I would raise their issues with the Australian Labor Party and seek an election commitment to have a national park created for Byron Bay to protect the significant coastal environment that they felt a passionate responsibility to preserve. I also gave my word to provide support for their claim. The then Labor Party Opposition gave a commitment, not only to the national park but also to work in a positive way with the claim. The recognition of native title rights is a hard road for Aboriginal people. The Indigenous Land Use Agreement has proven to be a much more respectful path than the legal-court process, but it is not without its delays and complications.

I take this opportunity to congratulate the Labor Government, past and present, on its commitment to this act of reconciliation and respect, and especially thank those who played such an important part in delivering the Indigenous Land Use Agreement. First, many thanks go to former Premier Bob Carr, who showed great leadership in committing to the process and treating the Elders with great respect. It is little known, but when he was in the area he would take time to make a special visit to the Elders, without the fanfare of the media, to sit with them and have a cup of tea and a chat. That simple act was a sign of respect and meant a lot to them; they were very fond of him. Bob Debus, a former Minister for the Environment, also maintained the focus during some difficult times.

Sue Walker, manager of the local area, and Mark Johnstone, the regional manager, both from the National Parks and Wildlife Service, have shown great commitment and offered ongoing support to the Arakwal in this process and during difficult personal times, especially following the loss of Elders. Adam McLean is the barrister who worked with the Arakwal throughout the process, and local solicitor Wroth Wall assisted him. These two professionals made a personal commitment to the Arakwal and assisted with the daunting requirements of the Native Title Act and the ongoing negotiations with the Government.

I thank also Jan Barham, who is now Mayor of Byron Shire Council. Jan was with me on that day in 1994 when we sat with the Elders for the first time and over the years she has sat on the many committees that have been established to deliver the progress of the Indigenous Land Use Agreement. Jan was my assistant at the time we worked on the 1994-95 State election campaign. Jan was on the Cape Byron Trust for some 10 years, negotiating many peripheral aspects of that business. I became a member of Parliament in 1995, and Jan worked in my office and assisted in maintaining the focus on the Indigenous Land Use Agreement. In 1999 she became a councillor on Byron Shire Council, and has been a consistent supporter of the Arakwal.

Jan has been a long-term community representative on the Arakwal National Park Committee and was honoured to be asked to be master of ceremonies at the final signing of the Indigenous Land Use Agreement stage three in 2007, when the then Premier, Morris Iemma, signed off and celebrated the finalisation of the agreement. Everyone involved in the long process added their paint-covered handprints to a painting to acknowledge that agreement.

My wholehearted respect goes to the women with whom I first sat down nearly 15 years ago—Yvonne Graham, Lorna Kelly and Linda Vidler, all of whom have now sadly passed away. I am unable to sufficiently express the warmth and admiration I have for those women who took on a challenge so great, but who had the driving force to achieve two key outcomes. They were inspired to protect the environment and provide a better future for their families. They have achieved both those goals—I suspect well beyond their expectations.

I invite members of the House to investigate or study the relationship between environmentalists, national parks and indigenous custodians who work together taking an holistic approach, environmentally and socially. Later I will acknowledge some of the things that they very generously gave back to the community. Often in this House we hear a contradiction of aims in debates. In fact, the aims in this matter were very clear and the challenges were great, but they were surmounted because we, as a community—Aboriginals, conservationists, and local politicians—worked together consistently on these issues.

Finally, I acknowledge the surviving sister, Dulcie Nichols, who now resides in Byron Bay and is the Elder of the Arakwal. I pay my respects also to Yvonne Stewart, who returned to her childhood home to take up the role as head of the Arakwal Corporation and has, for the last 10 years, been a constant driver for the delivery of the dreams of her Elders and community. Yvonne now sits on a number of State Government committees and offers great experience and expertise, which she shares with other Aboriginal communities who are seeking resolution of claims and advancement of shared goals.

I take this opportunity to put on the record some of the history of the process. When the Australian Labor Party was elected to Government it wasted no time in meeting its commitment to the establishment of a Cape Byron National Park and to include the cultural heritage and nature conservation issues between Cape Byron and Broken Head. In December 1985, the Government established the Cape Byron Consultative Committee. That committee consisted of Arakwal and Jali land council representatives, Byron Shire Council and a variety of community organisation representatives. It was convened and serviced by the National Parks and Wildlife Service.

A report to the Minister for the Environment, Pam Allen, was finalised in February 1966 and resulted in a deed of agreement between the New South Wales Government, the Arakwal and the Tweed Byron Land Council, and signed off by the Minister for the Environment and the Minister for Land and Water Conservation, Kim Yeadon, in April 1997. That agreement defined the issues that became embedded in the Indigenous Land Use Agreement and delivered an Australian first with the dedication of a national park via an indigenous land use agreement. The community of Byron shire has supported the local Arakwal people throughout the process. In 1988 the then Premier, Bob Carr, attended the official signing of the first New South Wales local government agreement with native title claimants. This was known as the heads of agreement. It was a commitment by Byron Shire Council to work in partnership with the Arakwal to further the environmental protection issues and support the Arakwal in their claim for the delivery of their home site and the transfer of land in Byron Bay for a cultural centre. An Aboriginal consultative committee was also established to work through the issues and ensure a whole-of-council approach in relation to furthering the respect, acknowledgement and management of the lands that were under claim.

One of the significant outcomes has been the transfer of land that was owned by the council that adjoins the sacred Ti Tree Lake at Broken Head. This is part of the long negotiation process that has delivered land that is culturally important to the Arakwal back into a reserve system under co-management arrangements with the Government. These negotiations also provided for the transfer to the council of a parcel of land in Byron Bay that was under claim for the purpose of delivering a new library for the people of Byron shire. I emphasise that this act was a generous contribution by the Arakwal custodians to the overall cultural and educational opportunities in the Byron shire. It was a generous act in an area where so many covet the land and land values are so great. They gave it to the people of Byron shire to be used for a library, which is starting to be built, with great difficulty as is the case with so many of these projects. It will be a proud icon for local people and Aboriginal people and a shared cultural contribution in the future. It is something I have been very keen to see and I have worked in my own way to promote it. This was a fantastic and generous gift to all people.

In 2001 when the first Indigenous Land Use Agreement was signed to create the Arakwal National Park it was a day of great celebration. At Cape Byron Lighthouse in 2001 Arakwal Elders Lorna Kelly, Linda Vidler and Dulcie Nicholls, Bundjalung Elder Eric Walker, the then New South Wales Premier, Bob Carr, the then Minister for the Environment, Bob Debus, and many Aboriginal people from the region and community members gathered to witness the signing of this historic agreement, the first of its kind in Australia. I am not the only one to acknowledge the irrepressible commitment of those who have given so much energy and passion to these historic agreements. In 2003 the world conservation union, the International Union for Conservation of Nature, gave those involved in the land use agreement an award at the World Parks Congress in Durban, recognising the outstanding achievements in wildlife conservation and preservation of cultural heritage.

The national park is jointly managed by the Arakwal people and the National Parks and Wildlife Service and provides jobs and training for Arakwal people. The agreement has become a model for other native title negotiations in New South Wales and around Australia. It is a successful example of a commitment to resolving native title issues through negotiation rather than litigation. The Arakwal Indigenous Land Use Agreement was the result of many years of consultations between the Arakwal people, the National Parks and Wildlife Service, the Department of Land and Water Conservation, a range of community groups and the Byron Shire Council. The New South Wales Aboriginal Land Council and the National Native Title Tribunal played key roles in coordinating and mediating the negotiations.

The 2001 agreement marked the beginning of a land use framework aimed at resolving all native title and other interests in the traditional country of the Arakwal people. In 2003 Byron Shire Council relinquished its management of the Crown land operating as the Broken Head Caravan Park to allow for the negotiations with the Arakwal for transfer of the area. This current land transfer of a camping area, a little less than one hectare from the 98-hectare Broken Head Nature Reserve, allows the stage two Indigenous Land Use Agreement of 2006 to take effect.

The outcomes of the Indigenous Land Use Agreement have been recognised as meeting ecological and cultural heritage rights with the dedication of public reserves but have also delivered land back to the Arakwal. They have their original home site back in private ownership along with the planning processes in place to deliver four homes for the Arakwal people. This last is in recognition of the Elders as it was originally to provide homes for them. There is a dedicated site for a cultural centre in Byron Bay, which will provide a cultural tourism focus and employment opportunities. The transfer of other land to the Arakwal will provide economic independence to ensure the delivery of the homes. Tragically, the Elders passed away before their homes were built, and that is a very sad state of affairs. The cultural centre and a caravan park at Broken Head will bring ecological, cultural, social and economic benefits.

A substantial outcome of the Indigenous Land Use Agreements of the Byron Bay area has been that a number of Arakwal people have been employed to manage parks and reserves in Arakwal country. Several traineeship positions were created with the National Parks and Wildlife Service. These traineeships have given young Arakwal people opportunities to work where they live and to participate in their own culture. The camping areas of the caravan park described in the bill are now well established and are important to its functioning. The 2006 agreement transfers Broken Head Caravan Park, with the additional 981 square metres, to the traditional owners and at the same time enables 70 hectares of Crown land to be added to other national parks and reserves in the area, namely, the Arakwal National Park, Cumbebin Swamp Nature Reserve and Broken Head Nature Reserve.

Under this agreement the Arakwal Bundjalung people will maintain ownership of the caravan park for a minimum of 10 years, creating employment opportunities for their community. Whilst the six parcels of land

attached to the Broken Head Caravan Park have low conservation status and are historic encroachments, they enhance the economic viability of the caravan park as a going concern for the indigenous owners. The concurrent transfer of 70 hectares of Crown land into the adjacent parks and reserves already under management by the Arakwal people is also a win for the environment. The Broken Head Caravan Park adjoins the Broken Head Nature Reserve, a significant littoral rainforest area and described by many as the jewel in the crown in the New South Wales protected reserve system.

The State is now in a position to continue the relationship and, as neighbour to the caravan park, has the opportunity to work closely with the Arakwal in the management of the broader area. The potential for a unique collaboration to protect and preserve an area of great ecological and cultural significance and deliver a tourism experience of outstanding integrity will be the work of the future. I am very proud to have been part of this historic process and to be a member of a community that has supported Aboriginal people in their desire to achieve recognition of native title rights and deliver a better future for Aboriginal people and the environment. As a member of Parliament I am honoured to have had the opportunity to fulfil the commitment I gave to the Elders in October 1994 and to see their dream realised.

Again I acknowledge the Government for maintaining its commitment to the process and delivering these significant outcomes. It has been a long process and a major achievement and has proved that it is possible to negotiate respectfully in the spirit of reconciliation and produce tangible results. I am pleased to see the fruition of many years hard work on establishing indigenous land use agreements in Byron Bay that are workable and profitable and that create opportunities for sustainable benefits into the future. The agreements recognise the dignity and rights of Aboriginal people. They demonstrate an ability to redress the wrongs of the past and they create the means for a respectful future relationship with first peoples of this country. I commend the bill to the House.

Reverend the Hon. FRED NILE [5.37 p.m.]: On behalf of the Christian Democratic Party I am very pleased to support the National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009, which will provide justice for the Aboriginal communities in the Byron Bay region in northern New South Wales. The bill will provide a better future for the Aboriginal communities in that area by way of employment opportunities for Aborigines. It will provide Caring for the Country opportunities through co-management of the national parks and reserves. It will also complement existing tourism and recreation in the Byron Bay area, which has become a very popular tourist area. The bill will revoke 981 square metres in six small, separate land parcels from the Broken Head Nature Reserve to enable implementation of the Indigenous Land Use Agreement between the New South Wales Government and the Bundjalung people of Byron Bay.

I am pleased to support this bill. In the early 1980s when Attorney General Frank Walker introduced the first Aboriginal land rights bill I voted for it and I received a great deal of criticism, even from my own supporters. I believed then—and I believe now—that it was the least we could do to right some of the injustices that had occurred to Aboriginal people in Australia over a period of 200 years. In 1974 the Broken Head Nature Reserve, which comprises 98 hectares, was declared a protected reserve. The reserve is located six kilometres south of Byron Bay and is bounded by the Broken Head Caravan Park to the north, the Pacific Ocean to the east, Seven Mile Beach to the south and Seven Mile Beach Road to the west. Broken Head Nature Reserve is one of the Byron coast group of nature reserves, along with the Brunswick Heads and Tyagarah nature reserves. These are the only mainland coastal nature reserves on the far North Coast of New South Wales.

The Broken Head Nature Reserve falls within the Bundjalung tribal area and people of the Arakwal clan inhabit the area. It protects littoral rainforest regarded as one of the most rare sub-formations of rainforest in Australia. The remnant areas of rainforest are of seasonal importance for birds that are dependent on rainforest plants and insects. In 1995 and 1997 governments signed various indigenous land use agreements that resulted in the creation of a national park that is managed totally by the Department of Environment, Climate Change and Water and the Bundjalung people, which is a positive development.

On 20 December 2006 the New South Wales Government signed a second indigenous land use agreement with the Bundjalung people of Byron Bay, which meant that indigenous people had to surrender any potential native title in the lands and waters identified in the agreement in exchange for the transfer of the Broken Head Caravan Park and freehold title, currently Crown land, to the Bundjalung of Byron Bay Aboriginal Corporation, the transfer of Crown land to the national park system, and recognition of the Bundjalung people of Byron Bay through employment, training and co-management of the national parks.

The land to be transferred to Broken Head Caravan Park totals 981 square metres. This agreement, which includes the transfer of the caravan park and freehold, will require the Bundjalung people of Byron Bay to maintain operation and ownership of the caravan park for a minimum of 10 years. A covenant on land title will ensure that the land will always be managed as a caravan park. I am pleased to support this bill and I congratulate Mr Ian Cohen on his persistent work over many years to ensure the success of the legislation and the agreement.

The Hon. HELEN WESTWOOD [5.43 p.m.]: The National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 will enable the implementation of an indigenous land use agreement that will support further Aboriginal co-management of national parks and nature reserves on the far North Coast of New South Wales. The bill proposes to revoke six small parcels of land totalling, as we have previously heard, 981 square metres from Broken Head Nature Reserve. Over time these small parcels of land have been encroached upon by the adjacent Broken Head Caravan Park and now form part of the well-established camping areas in the Broken Head Caravan Park. Two indigenous land use agreements signed in 2006 between the Bundjalung people of Byron Bay—the Arakwal people—and the New South Wales Government will result in 124 hectares of Crown land being added to the national park system, protecting natural and cultural heritage for future generations. These lands will be co-managed with the Bundjalung people of Byron Bay—the Arakwal people.

I commend Mr Ian Cohen for his earlier significant contribution, as it is important for us to understand the nature of this historic event and agreement. Because negotiations such as this often take time, it is rare to have people who have been involved from the beginning and who have understood the process and the difficulties encountered by groups and individuals to achieve the justice and reconciliation that all members of Parliament want for the indigenous people of this State. It was extremely useful to hear of that history and of Mr Ian Cohen's first-hand experience, and it is important to put that on the public record. The agreements will also result in a transfer of Broken Head Caravan Park to the Bundjalung people of Byron Bay, providing significant employment and business development opportunities while ensuring its continued use as a caravan park.

This bill will resolve existing boundary anomalies around Broken Head Nature Reserve. Aboriginal co-management of national parks and reserves involves sharing responsibility for a park's management. It recognises that land is fundamental to Aboriginal culture and it ensures that parks are managed or used in a way that respects Aboriginal culture. Our aim is to ensure that Aboriginal people have the opportunity to participate in planning and decision-making for the park or reserve, while maintaining access to parks for everyone. It also builds skills within Aboriginal communities and contributes to meaningful employment and business development opportunities for Aboriginal people. By participating in park management and connecting to the land Aboriginal people strengthen and renew their cultural and physical wellbeing.

Aboriginal communities continue their connection to the land, pass on their knowledge to younger generations, and mentor and inspire young Aboriginal people. This bill will play an important part in such development. Aboriginal people will build skills in park management, governance and business development. Visitors to co-managed parks will have a richer experience by meeting Aboriginal custodians and by gaining a better understanding of Aboriginal culture. The Government has a good record in achievements in Aboriginal co-management of national parks and reserves. Over the past 10 years the Government has negotiated 15 co-management arrangements with Aboriginal communities.

In addition to the co-management achievements on the far North Coast, other achievements that are worth mentioning include the Githabul Indigenous Land Use Agreement, which establishes co-management arrangements for 10 parks near Kyogle in north-eastern New South Wales, and the return of lands at Stockton Bight near Newcastle to Aboriginal owners—the Worimi people—which are now managed as the Worimi Conservation Lands. Such co-management arrangements will mean that access to the park for cultural activities will continue, ensuring that Aboriginal people's connection to their country is maintained. It also represents employment and other business opportunities for local Aboriginal communities. Broken Head Nature Reserve is a 98-hectare reserve located five kilometres south of the Byron Bay township and it lies adjacent to Broken Head Caravan Park.

It has been said many times by members of this place who come from that area that it is a most beautiful place. All the coastal areas in that region are beautiful. It is wonderful to see developments such as this that will ensure the protection of those areas and maintain a connection between the indigenous people of the area and visitors to the area. I know that those areas rely heavily on the tourist dollar, which is important to their local economy. In addition, Broken Head Nature Reserve protects extensive areas of rainforest, brush box, forests and woodlands, and headland grasslands, and it is culturally significant to the Bundjalung people of Byron Bay.

The revocation of these small parcels of land from the Broken Head Nature Reserve and their transfer to the Bundjalung people of Byron Bay—the Arakwal people—as part of Broken Head Caravan Park will enable the implementation of the Indigenous Land Use Agreement and support further Aboriginal co-management of national parks in Byron Bay. This certainly is great for Aboriginal communities and, importantly, for conservation outcomes in New South Wales. I am certainly pleased to support this bill.

The Hon. LYNDIA VOLTZ [5.50 p.m.]: As the Hon. Ian Cohen noted, the Arakwal Indigenous Land Use Agreement resulted from seven years of consultation between the Arakwal people, the New South Wales Government, through the National Parks and Wildlife Service, and the Department of Land and Water Conservation, a range of community groups, the Byron Shire Council, the New South Wales Aboriginal Land Corporation and the Native Tribunal, which all played key roles in coordinating and mediating the negotiations. In particular, this agreement is testament to the original applicants: Aunty Lorna Kelly, Aunty Linda Vidler and Aunty Yvonne Grahame. I should note also Aunty Linda's daughter, Yvonne Stewart, who, as the Hon. Ian Cohen already mentioned, carries on the work along with other Elders and members of the Arakwal people. At the time of the agreement Aunty Linda said it marked a turning point in a 14-year campaign to see her people's lands and customs formally recognised and gave the younger generation hope for a better way of life. She said:

We are pleased that the NSW government recognises that this is our country and have worked long and hard to make this day happen.

Fourteen years is a short time in the history of my people but to secure our rights and a brighter future for our families makes it worth the effort.

This land use agreement involves a genuine partnership between local and State governments but, importantly, it is a genuine partnership between the Byron Bay community and the Arakwal people. I take this opportunity to acknowledge my parliamentary colleague the Hon. Tony Kelly, who, as many people may not be aware, has been a tireless advocate for these agreements. The Indigenous Land Use Agreement comes in three parts. The first agreement was registered in 2001 and saw the creation of the Arakwal National Park, the first of its kind in Australia, which is managed jointly by the State Government and the Arakwal Bundjalung people.

The second agreement, which was signed in 2003, was between the Byron Shire Council and the local Arakwal Bundjalung people for a historic land transfer agreement, which was signed by Aunty Lorna, Aunty Linda and Mayor Tom Wilson. The parties agreed to a native title claim by the Arakwal people over the land in the sandhills east of Byron Bay and the transfer of a parcel of land in the sandhills estate to Byron Shire Council for a new library in exchange for land at Taylors Lake. My colleague the Hon. Ian Cohen has spoken already about the building of that library, the council handing over the management of the Broken Head Caravan Park to the Arakwal Bundjalung people and the Minister agreeing to the transfer of the title of the Broken Head Caravan Park to the Arakwal Bundjalung people. The Indigenous Land Use Agreement resulted in the development of a strategic plan for the sandhills estate. The agreement signifies a strong relationship between the local council, the community and the local Aboriginal people. The third agreement, which was registered in 2006, being a former section of the second Indigenous Land Use Agreement, relates to council land at Taylors Lake to be acquired by the Minister for reserving under the National Parks and Wildlife Act in recognition of its cultural importance to the Arakwal Bundjalung people as a sacred area for the women.

Indigenous land use agreements are very important. Native title claimants or holders can negotiate a co-management arrangement for a park through the negotiation of an indigenous land use agreement with the New South Wales Government. An indigenous land use agreement is a voluntary agreement between a native title group and others about the use and management of land and waters. They can be made separately to the formal determination of a native title claim or they can be a stepping-stone towards, or part of, a formal native title determination by the Federal Court. The New South Wales Government can negotiate an indigenous land use agreement with native title claimants regarding the management of public land in their claim area. The New South Wales Government usually negotiates indigenous land use agreements that cover a whole native title claim, which may cover many different land tenures and cover land managed by more than one government agency. Part of the indigenous land use agreement can address the management of national parks and can outline a park's co-management and the exercise of native title rights on the park.

An indigenous land use agreement can also deal with the management of an existing park or the creation of a new park and may recognise native title rights, enable development to take place on the land, deal with how that development will occur, deal with how native title rights will be exercised and address any compensation payable to the native title group. If the indigenous land use agreement is registered on the Register of Indigenous Land Use Agreements it binds all parties and all native title holders to the terms of the agreement. The native title rights established by an indigenous land use agreement have the same force under Federal law as if they were part of a native title determination. The negotiation of an indigenous land use

agreement can be legally complex and may take some time. Native title claimants will need resources to collect credible evidence of native title and to negotiate indigenous land use agreements.

The bill proposes to revoke six small parcels of land totalling 981 square metres from the Broken Head Nature Reserve, which is part of the indigenous land use agreement. It will enable the land to be transferred to the traditional owners, the Arakwal people. Broken Head Nature Reserve lies adjacent to Broken Head Caravan Park. Over time these small parcels of land have inadvertently become part of the well-established camping area located in the caravan park. This is a very minor revocation proposal. Broken Head Nature Reserve is a 98-hectare reserve located five kilometres south of the Byron Bay township. It is one of the Byron coast group of nature reserves that, along with Brunswick Heads and Tyagarah nature reserves, contribute to the unique natural character of the Byron Bay area.

The nature reserve is bounded by Broken Head Caravan Park to the north, the Pacific Ocean to the east, Seven Mile Beach to the south, and Seven Mile Beach Road to the west. It protects extensive areas of littoral rainforest, brush box, forests and woodlands, and headland grasslands. It has steep headlands, small coves and beautiful beaches. The area is culturally significant to the Bundjalung people of Byron Bay. Over the years since the nature reserve was established in 1974 the caravan park has inadvertently encroached on the nature reserve in six separate areas totalling 981 square metres. These small parcels of land are now well-established camping areas and have negligible conservation value for the nature reserve. Under the agreement the Bundjalung people of Byron Bay will maintain ownership of the caravan park for a minimum of 10 years. A covenant on the land title will ensure that it remains a caravan park in perpetuity. This proposal essentially is a minor boundary adjustment and must be considered in the wider context. These small encroachments, in six separate land parcels, totalling only 981 square metres, make up only 0.1 per cent of the entire nature reserve. It is important to note also that this stage two Indigenous Land Use Agreement with the Bundjalung people will deliver the addition of more than 70 hectares of Crown land to national parks and nature reserves in the area. As I have said, this agreement is the second of its kind in Byron Bay.

In recognition of its success and significance, the New South Wales Government and the Bundjalung people of Byron Bay were honoured with an award from the World Conservation Union for distinguished achievements in wildlife conservation and for joint management of the Arakwal National Park. The revocation of these parcels of land from Broken Head Nature Reserve and transfer to the Bundjalung people of Byron Bay—the Arakwal people—as part of Broken Head Caravan Park will enable the implementation of the stage two Indigenous Land Use Agreement and support further Aboriginal co-management of national parks in Byron Bay. It is important that we note also that within this national park—the Hon. Ian Cohen will correct me if I am wrong—the Arakwal people run the only Aboriginal diving service within a national park area. Certainly some good things are happening in the area. I commend the bill to the House.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.59 p.m.], in reply: The National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 will correct some boundary anomalies around the Broken Head Nature Reserve and enable implementation of an indigenous land use agreement between the Bundjalung people of Byron Bay, or the Arakwal people, and the New South Wales Government. Since 2001 three indigenous land use agreements [ILUAs] on the far North Coast of New South Wales have created additions to the national parks system that are jointly managed by the New South Wales National Parks and Wildlife Service and the Bundjalung people of Byron Bay.

Aboriginal joint management of parks has a number of benefits for the New South Wales community and for Aboriginal communities, such as real and meaningful employment and other business opportunities for Aboriginal people. For example, 10 Aboriginal people are currently employed by the National Parks and Wildlife Service in Byron Bay. The first Indigenous Land Use Agreement in the Byron Bay area was signed in 2001 and resulted in the creation of the jointly managed Arakwal National Park. The Bundjalung people of Byron Bay are involved in all aspects of management of the park. However, ownership of the park remains with the New South Wales Government. The whole New South Wales community benefits from this significant coastal area being protected and available for public use.

As mentioned previously by other speakers in the debate, this successful joint management model of the Arakwal National Park attracted an award from the World Conservation Union for distinguished achievements in wildlife conservation and woodland management. The second and third indigenous land use agreements in the Byron Bay area, which were both signed in 2006, will protect a further 124 hectares of Crown land in the national parks system as a result of the addition of the Arakwal National Park, Broken Head Nature Reserve and the Cumbebin Swamp Nature Reserve. The agreements will ensure that those areas of Crown land

will be protected as parks. Public access to those areas will continue from now into the future. The agreements will also protect endangered ecological communities, threatened species habitat and coastal wildlife corridors, which is a significant conservation achievement for the people of New South Wales, as I am sure all members would agree.

An important part of the second Indigenous Land Use Agreement is the transfer in freehold title of Crown land, which includes the Broken Head Caravan Park, to the Bundjalung people of Byron Bay. Over time, some parts of the Broken Head Caravan Park encroached onto the neighbouring nature reserve. Those areas are now well-established camping areas and have minimal conservation values. Therefore, as part of the agreement, the New South Wales Government proposes to revoke those small parcels of land from the nature reserve and include them as part of the transfer of the caravan park to the Bundjalung people of Byron Bay. To ensure that national parks and nature reserves are protected in perpetuity, revocation of land reserved under the National Parks and Wildlife Act 1974 requires an Act of Parliament. To address the boundary anomaly at Broken Head, the National Parks and Wildlife (Broken Head Nature Reserve) Bill 2009 proposes to revoke six small parcels of land totalling 981 square metres from the Broken Head Nature Reserve.

Over the past 10 years, the Government has negotiated 15 Aboriginal co-management arrangements, including indigenous land use agreements, with Aboriginal communities throughout New South Wales. Various models support joint management arrangements, including ownership and leaseback arrangements under the National Parks and Wildlife Act, memorandums of understanding between Aboriginal communities and the National Parks and Wildlife Service, and indigenous land use agreements, which are flexible agreements made under native title legislation and which can be tailored to meet specific land use issues. The revocation of those small parcels of land from the Broken Head Nature Reserve and their transfer to the Bundjalung people of Byron Bay, the Arakwal people, as part of the Broken Head Caravan Park will facilitate implementation of the Indigenous Land Use Agreement and support Aboriginal co-management of national parks in New South Wales.

I thank all members for their contributions to the debate. In particular, I acknowledge the contribution of Mr Ian Cohen. His passion was very obvious. He outlined in wonderful detail the history of this reserve. His tenacity and commitment have been rewarded. I am certain that all members would have been moved by his emotion when acknowledging Aunty Linda, Aunty Lorna, Aunty Dulcie and Aunty Yvonne. I commend this bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

[The Acting-President (The Hon. Kaye Griffin) left the chair at 6.05 p.m. The House resumed at 8.00 p.m.]

MINING AND PETROLEUM LEGISLATION AMENDMENT (LAND ACCESS) BILL 2010

Second Reading

The Hon IAN MACDONALD (Minister for State and Regional Development, Minister for Mineral and Forest Resources, Minister for Major Events, and Minister for the Central Coast): [8.00 p.m.]: I move:

That this bill be now read a second time.

The Mining and Petroleum Amendment (Land Access) Bill 2010 will restore certainty for landholders and exploration title holders over land access arrangements. The bill will ensure certainty around those access

agreements that are negotiated or arbitrated in the future. It will also validate existing access arrangements. The amendments set out in this bill address an issue that, left unresolved, has the potential to impact significantly on this State's economy. The bill upholds longstanding practice and avoids potentially nightmarish bureaucracy for all parties. It ensures that those with a direct interest in the operations of a property can sit at the negotiating table with an exploration company and agree practical access arrangements to their properties.

New South Wales is unique in protecting landholder interests in this way. It is the only State that requires explorers to negotiate a comprehensive access arrangement with the landholder prior to exploration activity commencing. It is the only State that has a land access agreement. In Queensland, Western Australia and South Australia explorers are required only to give the landholder a notice of entry—which is a huge difference. This bill will mean that landholders will independently and confidentially be able to agree terms that suit their interests. They will be able to do this without needing to disclose the details to their bank or utilities such as Telstra and Country Energy that may have easements on their properties. It means that, potentially, thousands of access arrangements that have been negotiated in good faith across New South Wales in the past will stand. It also means that disruption to exploration activity in the mining industry will be minimised.

This is a win for landholders, a win for the mining industry, and a win for commonsense. The mining industry is the largest commodity export industry in the State. In 2008-09 the estimated total value of minerals produced in New South Wales was round \$22 billion. Mineral exports comprised about 50 per cent of our total merchandise exports. Including minerals processing, the minerals industry employs approximately 47,000 people directly and supports over 200,000 jobs throughout the State. Mining is a contributor to diverse regional economies. Diversity in regional economies makes these economies more resilient to commodity and business cycles. Having a broad range of industries operating across the State is important to achieving sustainable economic growth and creating job opportunities for people who live outside the cities. That is why this debate should not be reduced to a debate about mining versus farming. It should also not be a question of one or the other.

It is important for us all to ensure that the industry and landholders have a clear way forward for making access arrangements for exploration. The Crown owns the vast majority of mineral and petroleum resources in New South Wales. This means that the resources are owned by the people of New South Wales, not by any landholder, or by any person who may have a lease over a property. Any mineral resources are owned by the State. The surface of the land may be privately owned, but the Crown owns almost all minerals that may be below the surface of that land—an essential point in this State. We are talking about Crown assets that are held on behalf of the people of this State. The Government has an obligation to ensure that, where appropriate, these resources are utilised for the economic benefit of the people of New South Wales to create investment and jobs, and to provide income.

In order to identify where these resources are, the Government authorises mining and petroleum companies to access land to explore for minerals and petroleum. The Government gives explorers the right to explore for those resources by assessing and approving an exploration licence. This licence does not mean that explorers can do whatever they like on the land. The exploration licence is subject to conditions, including conditions to minimise environmental impacts and to rehabilitate any environmental damage. These requirements have been considerably strengthened by this Government in recent years through amendments to the Mining Act. In addition, explorers cannot access a property until they have made an access arrangement with the landholder. These arrangements deal with how and when the explorer will access the land and may set out any compensation payable.

Before turning to the amendments in detail it is important to provide some background on how the current issue arose. It is also important to spell out what the issue means for landholders and exploration title holders. Provisions for negotiating access to private land for mineral and petroleum exploration have been part of the Mining Act and the Petroleum (Onshore) Act for many years. In fact, similar provisions exist in mining Acts in every State in Australia. The Mining Act and the Petroleum (Onshore) Act provide for access arrangements to be negotiated directly between exploration title holders and landholders. The two Acts also state that the titleholder can carry out exploration activities only in accordance with an access arrangement made with relevant landholders. Where agreement cannot be reached, the Acts provide for decisions to be made by an arbitrator in the first instance, or on review by the Land and Environment Court.

Making land access arrangements is a time-honoured practice for all mineral and petroleum explorers. Traditionally, these have been made with the owner or occupier of the land. Under the legislation the current definition of "landholder" is broad. Among other things, it includes "a person identified in any register or record

kept by the Registrar-General as a person having an interest in the land." That means that there may be a number of landholders for each property in addition to the registered proprietors. That is because mortgagees, easement holders and holders of covenants are also captured by the definition of "landholder". The potential for difficulties around access arrangements became evident following the outcome of a recent appeal to the New South Wales Supreme Court. The judge quashed two access arrangements that had previously been determined by the Mining Wardens Court.

In that case the Supreme Court ruled that all landholders with a registered interest in land, not just the owner or occupier, must make a single access arrangement with the exploration company. I want to spell out some of the implications of that court decision. The judge concluded that a single access arrangement to which all landholders were party was required for the access arrangement in question to be valid. Entities such as banks and utilities that hold easements must, therefore, be included in negotiation of a single access arrangement to a property. In this case, in accordance with common practice in industry, the mortgagees of both properties had not been included in negotiation of the arrangements. The ruling prevented the exploration title holder from undertaking exploration activities on the land in question.

Currently there are 1,170 exploration titles across the State. The court's decision potentially has implications for hundreds of access arrangements across New South Wales where more than one person has an interest in the land. These access arrangements may need to be renegotiated. Exploration under existing access arrangements might have to cease whilst this takes place. The decision could significantly disrupt exploration activity in New South Wales. The court's decision also has serious implications for landholders. It could mean that the negotiation of access to land is not a decision just between the owner or occupier of the property and the exploration title holder. The explorer would also have to negotiate with any entity with a registered interest, such as mortgagees and those who hold an easement or right of way.

Negotiating a single agreement with all these parties may mean that landholders have much less say in what happens on their land. Landholders may also be forced to go through the uncertainty and delay of arbitration. In the end they may be saddled with an arrangement that compromises their interests in order to accommodate other parties. In addition, the landholder might no longer be able to make a confidential agreement regarding compensation for the use of their land. The landholder's bank would also be party to the arrangement—and other financial institutions in some instances—which could include an agreement as to compensation.

It is proposed to amend both the Mining Act and the Petroleum (Onshore) Act to address the issues that have arisen from the Supreme Court's decision. The bill will do this by making several key amendments. Firstly, the bill narrows the definition of "landholder", but those changes do not affect that part of the definition covering owners of the land in fee simple. The changes focus on the part of the definition that involves the holding of an interest recorded by the Registrar-General. The changes reduce the definition to certain specified categories. These include registered mortgagees in possession, lessees and other persons with an exclusive right to occupy the land—for example, a share farmer with the full agreement of an owner. This is a sensible approach as they are the people who, similar to owners in fee simple, are in the best position to negotiate access in a way that addresses circumstances on the land concerned.

Two types of Crown interest are also retained within the registered interest part of the landholder definition. The first of those involves covenants imposed by the Minister under the Crown Lands Act. The second involves interests of a Minister or public authority under a conservation, natural heritage or biobanking agreement. This provision means that covenants and interests can be appropriately managed in the development of access arrangements. The bill will remove the obligation for an access arrangement to be made with a new class of landholders termed "secondary landholders". Secondary landholders are those with a registered interest in the land, other than those I have mentioned, and include registered mortgagees and holders of easements and rights of way. These secondary landholders will still be eligible for compensation for any compensable loss caused by exploration activities. It should be noted that industry practice is to avoid exploration on utility and telecommunication easements. Generally, exploration activity on these narrow corridors of land can take place in a way that does not affect these interests.

Secondly, the bill allows for separate access arrangements for multiple landholders. This will ensure that each party with an interest can negotiate his or her own arrangement and can maintain confidentiality of the arrangements. That is an important point because after having gone through a very long drought many farmers are not so well off as others and may have extended their debt situation to meet the problems of the drought. In those circumstances they may not wish to have the financial details between them and an exploration company

revealed to another party such as the bank, and for very good reasons. In managing their land they may have made a determination to invest in cropping or extra livestock. If the bank sees the details of the agreement, which, under current arrangements that have effectively been put forward in the Supreme Court, it would have to have that disclosed as part of forming a single access agreement. The bank's position might be that the farmer should reduce the overdraft or attend to the mortgage.

The Hon. Duncan Gay: What is the aim?

The Hon. IAN MACDONALD: I think banks more or less would rather the debt be paid in that direction. The bill will not prevent landholders agreeing to a single arrangement if they wish to. The bill provides also that access arrangements are required only to cover the particular area of land on which the exploration title holder proposes to carry out exploration. This addresses situations where the stage of work planned by the exploration title holder applies to only part of a block of land covered by the relevant land title or tenure. The intention is that only those landholders referable to that part of the land need be parties to the access arrangement or arrangements for that stage of work. The bill makes it clear that access arrangements should not replicate conditions of an exploration licence; nor should they replicate matters that the exploration title holder is otherwise required to comply with under the Mining Act or Petroleum (Onshore) Act.

These licence conditions are enforced by the Government. It is not generally appropriate that they form part of an agreement between private parties. The bill will streamline requirements where there is a change in landholder. It does this by providing that, where an access arrangement covers two or more landholders, it does not terminate if one of them ceases to be a landholder of the property. Provision also is made for situations where an additional person becomes a landholder of a property when an access arrangement with the existing landholder is already operating. The bill makes provision for a process for notification of an additional landholder to be included in an access arrangement. The existing access arrangement is to apply to the additional landholder if the prospecting title holder provides that person with a copy of the arrangement. For example, the access arrangement covering a landowner who leases out the land would cover the lessee.

Similarly, a bank that becomes a mortgagee in possession would be covered by the access arrangement of the mortgagor. However, there is provision for the additional landholder in such cases to make an objection and renegotiate arrangements. A replacement access arrangement must be agreed to or determined within 28 days; otherwise the deemed application of the existing arrangement expires unless continued, with or without variation, by an arbitrator or the Land and Environment Court. Such a continuation may be ordered either within the 28-day period or afterwards. This will not prevent advance negotiations or arbitration to set up an individual access arrangement for a proposed additional landholder. Despite these provisions access arrangements will not run with the land. That means that if, for example, the property is sold outright a new access arrangement will need to be made with the new landholder. The bill also includes provisions relating to variation of access arrangements. This includes clarifying that where the Land and Environment Court has determined an arrangement the parties are free to agree on subsequent variations without having to return to court.

I refer now to the transitional provisions. The bill provides that existing access arrangements are valid if their creation would have complied with the proposed amendments. For example, this would cover cases where there was a failure to make an access arrangement with an entity such as a mortgagee, which it is now proposed will be in the secondary landholder category. The bill provides also a streamlined process for dealing with any arrangements that have been set aside by a court. In these cases any party can apply to the Land and Environment Court for the determination of an access arrangement that complies with the amended Act. This amendment will overcome any need to negotiate new arrangements that include secondary landholders, and will make the arbitration process optional. These amendments will ensure certainty for landholders and the mineral and petroleum explorers who approach them seeking access to their land. The bill will provide a consistent and transparent approach to how access arrangements are made. It will mean occupiers of the land, not banks or utilities, are the key party at the negotiating table when access arrangements are made with explorers.

The significance of the mining industry to the New South Wales economy means that there must be certainty and consistency for both landholders and titleholders. Disruption to our most significant industry—it makes up 50 per cent of our merchandise exports—will have a major impact on the New South Wales economy. The bill will remove doubts about the validity of the thousands of existing arrangements and sets out clear requirements for future arrangements. This will benefit not just landholders and the minerals and petroleum industries but all of New South Wales. Given the considerable interest in this bill and that there seems to be much misunderstanding about some aspects of the bill, I am proposing a period of consultation with farmers and other stakeholders to ensure everybody has a chance to have their say. This is an important issue and must be

dealt with properly, but there is a lot of uncertainty in this field. Exploration activities already have been terminated or ceased in western New South Wales because of uncertainty about the validity of access agreements.

Currently the situation is that many thousands of agreements could be subject to challenge. The bill will direct negotiations to the farmer or occupier of the land as the party with whom the negotiations will be conducted, rather than all the other parties attendant to a registered interest. I cannot conceive of any utility or bank being concerned to have rights being incumbent upon the decision that has been made by the Supreme Court. However, the problem is that the legislation containing the definition of "landholder" operated for many, many years without challenge.

The Hon. Trevor Khan: How many?

The Hon. IAN MACDONALD: Many years.

The Hon. Trevor Khan: How many?

The Hon. IAN MACDONALD: Many years. I can state how many years later. It was certainly up to 15 years ago.

The Hon. Trevor Khan: Up to 15?

The Hon. IAN MACDONALD: It has been in for so long and has been the way the Act has operated for so many years that the Government and I believe—as most reasonable people would, even some members opposite—the issues should be dealt with in that way, not by application of the broader definition. That is why the Government has introduced the legislation. I am sure that the Deputy Leader of the Opposition, the Hon. Duncan Gay, will move to adjourn the debate to enable the legislation to be discussed fully.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.20 p.m.]: My comments, prior to moving to adjourn debate on the Mining and Petroleum Legislation Amendment (Land Access) Bill 2010, will be brief. The bill amends the Mining Act 2002 and the Petroleum (Onshore) Act 1991. It will amend the definition of "landholder" so that an exploration company will need to make an access arrangement only with a person who has exclusive possession of a property, or a right to exclusive possession, as the Minister stated. It will remove the requirement for exploration companies to negotiate access arrangements with secondary landholders, such as easement holders or mortgagees. It will retain the right of secondary landholders to claim compensation if their interests are adversely affected during exploration. It also will provide an exploration company with the flexibility to make more than one access arrangement when there is more than one landholder in relation to a property.

The Minister indicated during his second reading speech that the definition of "landholder" is an old definition. The Minister is part of the Keneally-Tripodi-Obeid Government. The Eddie Obeid brand is on the rump of rural New South Wales in more than one place. It is stamped over various areas of the State. My colleague the Hon. Trevor Khan asked me whether I had consulted the 1999 amendment to the Mining Act. This afternoon Helen Georgopoulos of the Australian Thoroughbred Breeders association also suggested that I refer to the 1999 amendment. Prior to this afternoon, I had had no opportunity to do so. I am sure that the Minister, who is an avid student of history—albeit, apparently, a student who does not have a very good memory, based on his comments—would be interested in the second reading speech made by the Hon. Eddie Obeid, which states:

In the past, mining legislation made a distinction between Crown land and private land. This bill abolishes that distinction. Crown and private lands can now be dealt with on an equal basis, particularly in regard to the giving of notice and the right to compensation.

In addition, the definitions of "owner" and "occupier" are dispensed with and are replaced with the term "land-holder".

The Hon. Trevor Khan: Was that 1999?

The Hon. DUNCAN GAY: Yes, 1999—not generations ago. That legislation was passed in 1999 when Cabinet included the current Minister for State and Regional Development, and Minister for Mineral and Forest Resources. The Hon. Eddie Obeid went on to state:

The definition of "land-holder" includes people who uphold freehold title; people who hold a lease or licence issued by the Crown; native title holders; tenants with a lease in excess of three years; and others who may be entitled to lawful occupation of the land. These changes create a level playing field. At the same time, the bill clarifies the rights of land-holders.

A predecessor of the Minister for State and Regional Development, and Minister for Mineral and Forest Resources stated that 11 years ago in Parliament, yet the Opposition is invited to believe what everyone else has said instead. In 1999, the Hon. Eddie Obeid went on to state:

There is no longer any need to consider whether a person was the outright owner or whether the person's tenure derived from a lease or licence. These artificial distinctions of the past are no longer relevant to understanding the rights of land-holders. Let me give the House an example. In the past, when a holder of a mining lease wanted to include an additional mineral in the lease, notice had to be given to owners and occupiers of the relevant land, but only if the land was private land or Crown land held under a pastoral lease. With these proposed amendments, notice must be given to all land-holders.

The Opposition will move to adjourn debate on the bill because, as the Minister is aware, we did not receive a copy of the legislation until 15 minutes after the commencement of the second reading speech in the Legislative Assembly. The Minister's approach hardly constitutes consultation. However, I acknowledge that last night the Minister contacted me and forwarded a briefing note by email, to which the Opposition responded by expressing several concerns. I believe it is important to state the Opposition's concerns and the replies that we received from the Minister. In that context, I acknowledge the assistance provided by the Hon. Trevor Khan, the member for Upper Hunter, George Souris, and others. In response to the Opposition's concerns, the Minister's office stated as follows:

In relation to the definition of landholder, only part (g) of the definition in the dictionaries to the Mining Petroleum (Onshore) Acts which relates to registered interest is proposed to be modified. Parts (a) to (f) and (h) will not change. As a result, the definition of landholder for the purposes of negotiating an access arrangement will always include the owner of the estate in fee simple whether or not there is also a lessee with exclusive possession.

The Minister's representative sent me an additional page, which states:

The Government also added, that both an owner and a lessee would need to be covered by an access arrangement(s) if both existed.

The Opposition raised another concern, which reads:

... if an arrangement only needs to be negotiated with the landholder entitled to exclusive possession, does that mean that an agreement need only be negotiated with a lessee and that the lessor is only entitled to compensation?

The Minister's reply states:

All landholders (including secondary landholders) will be entitled to compensation if they suffer a compensable loss. Secondary landholders such as those with easements or rights of way will be entitled to compensation if they suffer compensable loss as a result of exploration activity. It is not proposed to amend the provisions in relation to compensation in the Act.

The Opposition also asked: If an easement holder is only entitled to compensation, in what circumstances would exploration actually interfere with the easement? The Minister's office told me the amendments would not validate access arrangements that have been ruled invalid by the court. An expedited process is proposed whereby any party to an arrangement that has been set aside by the court can apply directly to the Land and Environment Court for a determination, rather than start from square one. This is proposed as prior negotiations involving landholders and exploration companies have already been undertaken in good faith. Under the amendment bill there is no requirement to extend these negotiations to secondary landholders. Hence, there appears to be little value in repeating with the same parties steps that took place prior to the amendments to the legislation.

Another concern related to share farming, which the Minister touched on in his second reading speech. Who has exclusive possession and therefore the right to enter into the arrangement with the explorer? The Minister's office replied that the treatment of share farmers would depend on the nature of their share farming agreement. If the share farmer is identified in any register or records kept by the Registrar-General as a person having an interest in the land and they are a lessee or have an exclusive right of occupation of the land, they would be party to an access arrangement and be eligible for compensation. If they have a registered interest but do not hold the right to exclusive occupation, they would be considered a secondary landholder. As a secondary landholder they would not be party to an access arrangement but would be eligible for compensation, as the Minister said.

I have read out this material to indicate the importance of being able to read the legislation and address any problems. Although we had limited time to put these questions, the answers have been important and helpful. I am sure that as we go carefully through the legislation, which we have not had a chance to examine in detail, we will come up with other questions that need to be answered. I pay tribute to the New South Wales Farmers, many of whose members are present tonight. In a business-like and sensible way they sent an open letter to members of Parliament indicating, in part, their concerns about various sections of the amendment bill. In a no-nonsense way, which typifies this organisation, they simply stated that they supported the adjournment of the bill to the next sitting week to allow greater consultation. In light of what I have said, the pleas from New South Wales Farmers and others, the support the Opposition has received from all on the crossbench, to whom I pay tribute, and the Minister's indication that he will accept my motion, I seek to adjourn the debate to the next sitting week.

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

ROAD TRANSPORT LEGISLATION AMENDMENT (UNAUTHORISED VEHICLE USE) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.33 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The purpose of the bill is to support previous reforms to the vehicle registration system that have simplified registration requirements, reduced red tape and saved NSW motorists both time and money.

The previous reforms to simplify registration requirements need to be balanced by more effective enforcement systems to ensure that motorists continue to meet their obligation to renew the registration of their vehicles on time and do not drive vehicles that are unregistered and uninsured.

This bill will provide the legislative basis for better detection of unregistered and uninsured vehicles by allowing images from enforcement cameras, including red light, speed, bus lane, transit way and tollway cameras, to be used to detect these offences.

This bill will also make it clear that only a single registered operator is allowed for each vehicle and will remove any ambiguity in the legislation and strengthen the regulatory framework.

In May 2008 the New South Wales Government introduced broad reforms to the registration system to:

- extend the exemption for vehicle safety inspections from 3 to 5 years,
- make it easier for people to renew registration over the internet or phone by requiring pink slips to be transmitted electronically to the RTA,
- allow only a single registered operator for a vehicle, allow motorists to register their vehicles for shorter periods of six months if they renew the registration of their vehicle online, and
- provide fleet operators with the option of registering their vehicles for two or three years.

The amendments in this bill compliment these reforms and demonstrate the Government's commitment to simplifying the registration system and reducing red tape.

Substantial consultation on the reforms introduced in May 2008 was undertaken with the Motor Trader's Association, Motor Accidents Authority and CTP insurers.

Extensive consultations on the current reform have taken place with the Police, the Attorney General's Department and the State Debt Recovery Office and these agencies support the reform.

One of the major amendments in the bill, to allow the use of enforcement cameras to detect unauthorised driving, stems from a recommendation by the NSW Audit Office report "Dealing with Unlicensed and Unregistered Driving".

The Audit Office recommended that red light and speed cameras be used to detect unregistered vehicles. This bill will ensure that recommendation is implemented.

Images from red light, speed, bus lane, transit way and tollway cameras will be used to detect unregistered and uninsured vehicles.

The Roads and Traffic Authority estimates that about 1.2 per cent of vehicles, that is, 65,000 unregistered vehicles are being driven on NSW roads at anyone time.

Accidents involving unregistered vehicles impose substantial costs on all motorists through increased insurance premiums and personal injury claims caused by uninsured vehicles.

In 2007 approximately 8,400 penalty notices were issued for using an unregistered vehicle and 6,500 penalty notices were issued for using an uninsured vehicle through roadside enforcement.

However, this enforcement activity represented less than 13 per cent of all unregistered vehicles.

In the year to June 2008, 658,701 vehicles were detected as committing a camera-related offence. Of those vehicles 1 per cent were unregistered at the time of the offence—that is 6,898 vehicles.

Traditionally the Police have relied on a visual examination of the number plate and registration label to detect unregistered vehicles.

This approach has been limited in its effectiveness as vehicles continue to display a number plate and registration label even when registration has expired, is suspended or cancelled.

In December 2005 the NSW Police introduced the use of Automatic Number Plate Recognition (ANPR) technology to detect unregistered vehicles.

Police use of ANPR cameras has identified improvements in the detection of unregistered vehicles and unlicensed driving during roadside operations.

Vehicle registration status may change through the year. Detection systems need to be able to check the RTA database to determine if a vehicle is registered at a particular point in time.

Comparing information captured by cameras to the RTA's registration database is a cost-effective means of detecting large volumes of unregistered and uninsured vehicles.

NSW and the ACT are the only Australian jurisdictions not using camera technology to detect and prosecute the use of unregistered vehicles.

This bill will provide for penalty notices to be issued for other offences identified as a result of an initial camera-detected offence.

For example, where the registered operator receives a penalty notice for a camera-recorded speeding offence, and a check of the RTA database indicates the vehicle is unregistered, the registered operator will also receive a penalty notice for the offence of "use unregistered motor vehicle".

These measures will provide a strong incentive for motorists to ensure that the registration of their vehicle is renewed prior to the registration expiry date.

It has never been easier to renew registration online for large numbers of motorists.

Motorists now have the choice to register their vehicles for six months online if they cannot afford to renew for a year at a time. The RTA will however continue to send registration renewal notices by mail.

I further wish to assure the House that the key objective of this bill is to ensure that all vehicles are registered and insured.

This benefits the entire community. It protects registration revenue which funds infrastructure construction and maintenance, and reduces the costs of CTP insurance premiums.

Before camera detection of unauthorised driving is introduced the RTA will implement a communication campaign to remind customers of the importance of renewing their registration on time.

Another feature of this bill is to make it clear that only one registered operator, either a person or a corporation, is allowed for each vehicle.

The Registration Act currently allows for the Regulation to provide for one or more registered operators.

However, in May 2008 the Road Transport (Vehicle Registration) Regulation 2007 was amended to allow only one person to be recorded as the registered operator of a vehicle.

This amendment will simply remove any ambiguity and ensure consistency between the Regulation and the Act.

Since May 2008 any unregistered vehicle presented for registration or transferred to a new operator has been registered in a single name only. This change has not been compulsorily imposed on any vehicle currently registered in more than one name.

Many people are unaware that, under the Registration Act, registration is not evidence of vehicle ownership or property rights to a vehicle.

Registration records the name of the person responsible for ensuring a vehicle is registered, roadworthy and used responsibly on the road network.

Recording only a single operator will assist law enforcement agencies in identifying the person or corporation responsible for the vehicle and simplify the registration process.

In conclusion, the amendments in this bill will support reforms to the vehicle registration system that simplify registration requirements, reduce red tape and save New South Wales motorists time and money.

In addition, these reforms will provide a legislative basis for a more effective enforcement system to ensure that motorists continue to meet their obligation to renew the registration of their vehicles on time, and ensure that vehicles are roadworthy and insured.

I commend the bill to the House.

The Hon. TREVOR KHAN [8.34 p.m.]: The Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010 will amend the Road Transport (Vehicle Registration) Act to enable photographs taken by speed, red light and other Roads and Traffic Authority cameras to be used to prosecute individuals driving unauthorised vehicles. This will be achieved through a number of specific amendments. More importantly, an amendment to the Road Transport (Vehicle Registration) Act 1997 will enable photographs taken by certain approved camera devices to be tendered and used in evidence for certain offences involving unauthorised vehicle use, such as the use of an unregistered or uninsured vehicle. The bill confirms that generally only one person may be registered as the operator of a registered vehicle in the Register of Registrable Vehicles maintained under the Act and also consolidates in one section all the provisions currently in the Act relating to maintenance of the register.

According to the Roads and Traffic Authority, approximately 65,000 vehicles in New South Wales are unregistered. That is in the order of 1.2 per cent of all vehicles in New South Wales. Personal injury claims caused by unregistered vehicles represent about 2 per cent of all compulsory third party claims and cost, on average, \$18.5 million each year and add approximately \$6 to the annual compulsory third premium. Unregistered vehicles are also generally uninsured against property damage. Indeed, one might think that the lack of registration would constitute grounds for voiding any vehicle property damage insurance policy. Accidents involving unregistered vehicles impose an unquantified cost on other road users through property damage, and ultimately through higher insurance premiums.

Driving an unregistered and uninsured vehicle is an offence attracting an on-the-spot infringement notice fine of at least \$1,012, which can rise to \$2,200 for driving unregistered and \$5,500 for driving uninsured if the matter goes to court. In 2007 approximately 8,400 penalty notices were issued for driving an unregistered vehicle and 6,500 penalty notices for driving an uninsured vehicle. However, this represented less than 13 per cent of all unregistered vehicles. Of the 658,701 vehicles that were detected as committing a camera-related offence, 1 per cent were unregistered at the time of the offence. Yet under the current law this data cannot be used.

Current enforcement laws are limiting because police rely on a visual examination of the numberplate and the registration label for detection. This approach is restrictive, as vehicles continue to display a registration label even when registration has expired or has been suspended or cancelled. In December 2005 the New South Wales Police Force introduced the use of automatic numberplate recognition to detect unregistered vehicles. This bill will allow the use of the automatic numberplate recognition technology to better protect unregistered and uninsured vehicles by allowing images from enforcement cameras, such as red light, bus lane, speed, transitway and tollway cameras, to be used as evidence to detect these offences. This amendment will bring New South Wales into line with the rest of Australia, except—perhaps not unsurprisingly—the Australian Capital Territory. It reflects the need for detecting unregistered vehicles and will encourage motorists to ensure that registration of their vehicles is renewed prior to the registration expiry date. In the circumstances, the Liberals and The Nationals will not oppose the bill.

Ms LEE RHIANNON [8.38 p.m.]: The Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010 has some merit, as the previous speaker said, and the Greens will not oppose it. The bill allows a photograph taken by a camera, such as a Roads and Traffic Authority camera or tollway camera, to be used in offences such as driving an unregistered or unauthorised vehicle or an offence against regulations involving the prohibited use of a registered vehicle. This is in addition to offences where photographs can currently be used as evidence, such as running a red light or speeding.

Basically, automatic number plate recognition technology can detect numberplates of speeding vehicles or vehicles running a red light. The bill will allow the same camera that picks up a speeding or traffic light offence to pick up other offences such as driving an unregistered vehicle or driving an uninsured vehicle.

Theoretically, the Roads and Traffic Authority could scan the numberplate on every vehicle going past any traffic camera in New South Wales and issue fines to the owners of vehicles that show up on the Roads and Traffic Authority database as being unregistered or uninsured.

In his second reading speech the Minister said that about 65,000 vehicles in New South Wales are thought to be unregistered. This legislation obviously has the potential to raise a great deal of revenue for the Government. That would occur if the Roads and Traffic Authority started taking photographs of every numberplate that passes a speed camera. If that is what is intended in this bill, the Government needs to spell it out more clearly than it has thus far. Technology moves very quickly; what can be achieved these days is extraordinary. Clearly, the uses to which this technology can be put could easily be expanded. Even if one does not know how the technology works, one could sensibly extrapolate the uses to which the technology could be put. Technology to direct a camera to take a photograph of every car that passes by it, whether or not the vehicle is speeding, could well exist or be in the pipeline.

I urge the Minister to elaborate on the Government's plans. Even if such technology is at a formative stage, I would argue that its availability should be put on the table. And I do so for serious reasons: life can become pretty tough for some people who are fined for driving an unregistered vehicle. Indeed, their life can spiral out of control as debt from various fines builds. During my work on this legislation I came across an important report prepared by Elliott and Shanahan Research in December 2008 for the Roads and Traffic Authority. The report, which is entitled "Research Report: An Investigation of Aboriginal Driver Licensing Issues", investigated a number of aspects of how Aboriginal people interact with the Roads and Traffic Authority. However, I will take up only that aspect that is relevant to this bill—that is, outstanding debt that is so often associated with the Roads and Traffic Authority fining people for driving unregistered vehicles.

The key findings in the report show that a significant proportion of the Aboriginal community—40 per cent—have outstanding debt with the State Debt Recovery Office, a proportion of which relates to the offence of driving an unregistered vehicle. The study found that two in 10 vehicles—19 per cent—were unregistered. It also found that 13 per cent of the reasons offered by people for not registering their vehicles related to debt, and 38 per cent to affordability. I raise this matter for one obvious reason. By pursuing people more vigorously—and it could be very vigorous if the use of the new technology is optimised—the Government could capture more people, including Aboriginal people, who are repeatedly fined for driving an unregistered vehicle. Their debt will increase and, quite often, they end up in jail or lose their job, with all the consequences that go with that. One recommendation in the report deals with community debt and the flow-on effects on licensing and registration. It states:

It can increase the number of licensed drivers, which will help learner drivers; and it can help improve the Community's employment prospects, which can, in turn, improve on their ability to pay off debt, afford licence costs, and own and maintain a registered vehicle.

The report argues that that can be the outcome if every effort is made to deal with the debt that some people are running up as a result of driving an unregistered vehicle or driving without a licence. I emphasise that point in this debate. It is also worth noting that the report found that there was anecdotal evidence in the qualitative phase of the study that unemployment was strongly linked with licensing, with a loss of licence often meaning a loss of job. Conversely, having a licence can improve an individual's job prospects. I would argue that a similar situation arises with regard to registered or unregistered vehicles. As I said, the Greens do not oppose this legislation. I simply remind the Minister of this report, which was commissioned in 2008. We would be interested in hearing what progress has been made on the recommendations in the report. I would argue that the report is relevant to what we are considering tonight. It is not just about technology; it is also about the end product, and the end product can often mean a lot of fines and increased hardship for many people.

Reverend the Hon. FRED NILE [8.45 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010, which has three objects. The first object is to enable photographs taken by certain approved camera devices to be tendered and used in evidence for certain offences involving unauthorised vehicle use, such as the use of an unregistered or uninsured vehicle. We know that about 50,000 vehicles in New South Wales are not registered. It is a major problem, and the problem is exacerbated when unregistered or uninsured vehicles are involved in accidents. Those who follow the legal procedures are at a great disadvantage at that point. It is in the best interests of all drivers that all unregistered vehicles become registered or are put off the road.

The second object of the bill is to confirm that generally only one person may be recorded as the registered operator of a registrable vehicle in the Register of Registrable Vehicles, which is maintained under

the Act. This is important. Members will recall the front-page stories about one well-known individual who tried to exploit the situation by creating confusion about who was driving a vehicle registered in a company name. He was prepared to pay the fine initially and then, after some months, to pay a further fine for not advising the Roads and Traffic Authority about who was driving the vehicle at the time of the offence. The fines amounted to many thousands of dollars—\$30,000 or \$40,000. Importantly, this bill will crack down on individuals who try to exploit the situation. We do not know how many people have done just that, but I suggest that a large number of companies have engaged in this activity. It is important that the House supports this bill.

The third object of the bill is simply to consolidate in one section all of the provisions currently in the Act relating to maintenance of the register. The bill is practical and will give the Roads and Traffic Authority and the police the powers they need to improve road safety in this State and to ensure that all vehicles are registered. I support the bill.

The Hon. CHRISTINE ROBERTSON [8.49 p.m.]: The amendments in the Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010 are, first, about providing the legislative basis to enable photographs taken by certain approved camera devices to be tendered and used in evidence for certain offences involving unauthorised vehicle use, and that includes offences such as driving unregistered or uninsured vehicles. However, the amendments are also about simplifying the management of registration. Making it a requirement that each vehicle has a single registered operator will greatly improve the accuracy of the registration database and simplify address management.

It is important to note that registration does not record vehicle ownership. The name that appears on the certificate of registration of a vehicle is that of an individual or a corporation who is the responsible operator of the vehicle. The provision will assist law enforcement agencies to identify the responsible vehicle operator and provide for a more effective enforcement system. Enforcement cameras will continue to collect images of a vehicle's number plate for the purpose of identifying the registered operator of a vehicle. These changes will simply mean that when, for example, a speeding offence is detected, Roads and Traffic Authority records will be checked to determine if the vehicle is unregistered or uninsured at the time of the offence.

Penalty notices will be issued to the registered operator of the vehicle for both the speeding offence and any registration offence or use of an unregistered and uninsured vehicle that may have been committed. If the registered operator was not the driver at the time of the offence, he or she may provide a statutory declaration nominating and detailing the name and address of the driver at the time. Penalty notices will then be issued to the driver of the vehicle. But the registered operator of the vehicle may still be liable for the offence of cause or permit the use of an unregistered or uninsured vehicle.

While there will be no new offences created as a result of these changes, the following offences will remain: use unregistered vehicle; cause/permit use of unregistered vehicle; use uninsured motor vehicle; and cause/permit uninsured vehicle to be used. Each of these attracts a \$506 penalty notice. For heavy vehicles, higher fines and demerit points apply. This reform will simply improve methods of detecting non-compliant operators and will complement traditional roadside enforcement. Issuing penalty notices for unregistered and uninsured vehicle offences provides an incentive for compliance.

The 65,000 unregistered vehicles on New South Wales roads represent a loss of \$15 million annually in uncollected registration fees and tax. That is \$15 million that should be used to maintain our roads. Operators of unregistered vehicles are responsible for increased compulsory third party insurance premiums for all motorists, with personal injury claims caused by uninsured vehicles costing an estimated \$19 million annually. Protection of registration revenue, which funds road construction and maintenance, and reduction of compulsory third party insurance premiums, is a real benefit to the community. This fair enforcement strategy should lead to behavioural change for operators who ignore their responsibilities or choose not to register their vehicle.

An inquiry by the Standing Committee on Law and Justice into access to community-based sentencing addressed the issue of imposts on licences held by country people, particularly poor country people—although the same would apply to people living in cities—and how that impacts on them into the future. And of course I include people living in Tamworth. I am very proud to say that that matter has been addressed since in this House, as has every other recommendation from the committee's report. I hope that research will show that such imposts will be dealt with through the processes that have been put in place for that purpose in order that the lives of people are not destroyed because of one or two silly mistakes or because of their level of poverty. Motorists who register and insure their vehicles and obey traffic laws will not be affected. It is more likely that motorists who drive unregistered and uninsured will be caught and face substantial fines. I support the bill.

The Hon. SHAOQUETT MOSELMANE [8.53 p.m.]: The purpose of the Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010 is simple. The bill will provide the legislative basis for better detection of unregistered and uninsured vehicles by allowing images from enforcement cameras, including red-light, speed, bus lane, transitway and tollway cameras, to be used to detect these offences. This means that a vehicle must first be detected for a camera offence before also being checked for insurance and registration.

The purpose of the bill also is to simplify registration systems by allowing only one registered operator of a vehicle. Having a single registered operator for each vehicle will greatly improve the accuracy of the registration database and simplify address management. It is important to note that registration does not record vehicle ownership. The name that appears on the certificate of registration is that of an individual or a corporation who is the responsible operator of a vehicle. This will assist law enforcement agencies to identify the responsible vehicle operator and provide for a more effective enforcement system.

It is important to note that motorists who register and insure their vehicles and obey traffic laws will not be affected. Nor will any new offences be introduced as a result of this bill. It is more likely that motorists who drive unregistered and uninsured will be caught and will face substantial fines. In May 2008 the New South Wales Government introduced broad reforms to the registration system to extend the exemption for vehicle safety inspections from three to five years; to make it easier for people to renew registration over the Internet or telephone by requiring pink slips to be transmitted electronically to the Roads and Traffic Authority; to allow only a single registered operator for a vehicle; to allow motorists to register their vehicles for shorter periods of six months if they renew the registration of their vehicle online; and to provide fleet operators with the option of registering their vehicles for two or three years.

The amendments in this bill complement these reforms and demonstrate the New South Wales Government's commitment to simplifying the registration system and reducing red tape. We are not here to make it more complicated for motorists; we are here to ensure that everyone is paying their fair share. It is estimated that around 1.2 per cent of vehicles on New South Wales roads are unregistered and uninsured, and that represents around 65,000 vehicles. Accidents involving unregistered vehicles impose considerable costs on all motorists through increased premiums and personal injury claims caused by uninsured vehicles.

In the past visual examination of registration labels has been used and there has also been the somewhat limited use of automatic numberplate recognition technology by New South Wales police. However, all other jurisdictions, with the exception of the Australian Capital Territory, already make use of camera technology to detect unregistered and uninsured vehicles. These amendments will provide yet another incentive for motorists to ensure they have registered and insured their vehicle. The New South Wales Government is demonstrating a commitment to improved safety on our roads, improved regulatory processes and a more enhanced use of technology than already exists. I commend the bill to the House.

Reverend the Hon. Dr GORDON MOYES [8.57 p.m.]: I speak on the Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010, which amends the Road Transport (Vehicle Registration) Act 1997 concerning registered operators of vehicles and the detection of offences involving unauthorised vehicle use, and makes consequential amendments to certain other legislation. The bill is very important for the party that I represent, which is concerned about the values of the families of accident victims, who have suffered greatly over the years. My party instructed me to speak very forcefully on this issue and to support the Government in what it is doing.

The bill will amend the principal Act to enable photographs taken by certain approved camera devices to be tendered and used in evidence for certain offences involving unauthorised vehicle use, such as the use of an unregistered or uninsured vehicle; to confirm that generally only one person may be recorded as the registered operator of a registrable vehicle in the Register of Registrable Vehicles maintained under the Act; and to consolidate in one section all the provisions currently in the Act relating to the maintenance of the register.

The Roads and Traffic Authority estimates that 1.2 per cent of vehicles on New South Wales are unregistered and uninsured, which represents more than 65,000 vehicles. In 2002, 44 unlicensed drivers were involved in fatal accidents. Police assessed that 38 of those drivers were at fault, causing 44 deaths. In comparison, only 55 per cent of the 698 validly licensed drivers involved in fatal accidents were at fault. Those issues particularly concern the Family First Party because it has a deep and ongoing commitment to ensuring that children, many of whom are killed in accidents, survive. Of the 44 unlicensed drivers, the 18 who were disqualified or cancelled were assessed to be at fault in all fatal accidents in which they were involved.

The Motor Accidents Authority advises that personal injury claims caused by unregistered vehicles represent about 2 per cent of all compulsory third party [CTP] claims, cost on average \$18.5 million each year, and add approximately \$6 to the average annual CTP premium. In addition, unregistered vehicles are generally not insured against property damage. Accidents involving unregistered vehicles impose an unquantified cost on other road users through property damage and ultimately through higher insurance premiums. The 2003 report by the New South Wales Audit Office entitled "Dealing with Unlicensed and Unregistered Driving" recommended that red light and speed cameras be used to detect unregistered vehicles. In all other jurisdictions, except the Australian Capital Territory, enforcement cameras are used to detect unregistered vehicles. Consultation on the reforms had been undertaken in May 2008 with the Motor Traders Association, the Motor Accidents Authority and compulsory third party insurers.

Consultations on the current reform have been conducted with the New South Wales Police Force, the Attorney General's Department and the State Debt Recovery Office in relation to the camera detection of unauthorised driving and these agencies support the proposal. I will refrain from addressing the agreement in principle speech as it has already been said and I am sure it is absolutely correct. The key objective in using cameras to detect unauthorised driving is to ensure that all vehicles using the State's roads are registered and insured. This benefits the entire community in that it protects registration revenue and ultimately funding for road construction and maintenance. It will also reduce the costs on the insurance industry, and ultimately on motorists, from accidents involving uninsured vehicles. This legislation brings New South Wales into line with other States and Territories. On behalf of Family First I wholeheartedly support the Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill and I commend it to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.02 p.m.], in reply: I thank members for their contributions to this debate. I note that the bill has wide support across the House. I refer to two issues that were discussed in the debate. Although Ms Lee Rhiannon is not in the Chamber to listen to the reply, I will place on record my response to her concerns about how the Roads and Traffic Authority will use the photographs. The numberplate information captured by enforcement cameras when, for example, a speeding offence is detected will be checked against Roads and Traffic Authority records to determine if the vehicle was unregistered and/or uninsured at the time of the offence. Penalty notices will be issued to the registered operator of the vehicle for any speeding and registration offences that may have been committed. If the registered operator was not the driver at the time of the offence the registered operator must provide a statutory declaration nominating the actual driver.

Penalty notices will then be issued to that person and the original penalty notice issued to the registered operator will be cancelled. It is important to note that it is only if a person has committed an offence that their photograph will be checked. Ms Lee Rhiannon also referred to the technology. The rollout of this new technology will be a phased approach. The first phase will be a pilot during which time a grace period will apply and notifications sent to registered operators. Camera types to be used for phase one include speed and digital red light cameras. Eventually the Roads and Traffic Authority intends to use all camera types to detect and enforce unregistered and uninsured driving, including tollway and point-to-point average speed cameras. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.05 p.m.]: I move:

That this House do now adjourn.

LIBERAL PARTY CANDIDATES FOR MULGOA, PENRITH AND RIVERSTONE ELECTORATES

The Hon. MARIE FICARRA [9.05 p.m.]: I am delighted to inform the House that Councillors Tanya Davies and Kevin Connolly have been selected to be the Liberal candidates for the seats of Mulgoa and Riverstone respectively and Mr Stuart Ayres for Penrith. I have spoken in this place before about Labor's neglect of the Mulgoa and Penrith electorates and greater western Sydney. For too long, Labor has taken these people for granted and arrogantly dismissed their needs and interests. In June last year, along with Councillors Tanya and Mark Davies and another dedicated hardworking councillor for Penrith, Ben Goldfinch, we questioned why not all schools in the Mulgoa and Penrith electorates had school zone flashing safety lights. It is a disgrace that only two schools in the Mulgoa electorate have flashing safety lights. Astoundingly, the Penrith electorate has no school zone flashing lights installed. Ironically, the member for Penrith is the Parliamentary Secretary for Education—one would wonder what she has been doing.

In the last budget the Labor Government failed to allocate funds for school zone flashing lights in Penrith or Mulgoa. Similarly, teachers, parents and students are disappointed with Labor's failure to ensure safety of both their kids and their actual schools with safety fencing. Early this year, the Minister for Education and Training advised that not one of 19 schools without fencing in the Penrith and Mulgoa electorates had been allocated funds in the 2009-10 security fence program. The same neglect is evident in Riverstone. For more than a decade the Government has been promising a road bridge over the rail line at Riverstone—but the people of Riverstone are still waiting. For years the land identified as the "site for proposed high school" on Perfection Drive, Stanhope Gardens, has remained vacant and the Riverstone police station stays empty while the people of Riverstone are agitating for it to be reopened, particularly considering Labor's planned land release and the population growth this will facilitate in this north-west Sydney region.

Councillor Tanya Davies is a person of commitment and compassion who has already proved as a Penrith city councillor that she is prepared to fight for the needs and interests of the people of Mulgoa. After completing a Bachelor of Applied Science, she has continued to broaden her skills in the educational and corporate sectors. Tanya and her husband, Mark, have lived and worked in western Sydney for many years and are raising their three-year-old daughter, Laura. She knows what families are experiencing in Mulgoa under an incompetent Labor Government and wants to ensure the local services and infrastructure are delivered to this developing region. Tanya started doorknocking her council area from the moment she was elected to Penrith council, wanting to connect with local families and genuinely represent their needs. Many of these people had never met a political representative in all the years they had been voting, and more often than not they had been voting for the Labor Party, which has since forgotten them.

Councillor Kevin Connolly has lived in the electorate of Riverstone all his life and as a hardworking teacher has taught hundreds of kids in the electorate. He is highly respected for his work as a councillor on Hawkesbury City Council where he has served since 1999, having also served as deputy mayor for four terms. Involved as a manager, assistant coach, umpire, scorer with local netball, soccer and cricket clubs, Kevin is passionate about continuing to make a difference to the families of Riverstone and ensure that they receive the services and infrastructure that have been absent under Labor.

Mr Stuart Ayres has grown up in Penrith and held integral roles in community and sporting organisations. His love of the Australian Football League, playing for Penrith Rams, and as a cricketer with Nepean District Cricket Association has enabled him to develop a strong connection with his community and given him a determination to make a difference in Penrith. He achieved a degree in Business and is the Marketing and Business Development Manager at the Australian College of Physical Education, which is a proud sponsor of the Penrith Panthers rugby league NYC team. Stuart has great energy and tenacity to take up the cause for the people of Penrith. I commend the energy, dedication and commitment of these three fine Liberal Party candidates in representing the needs of the people in the seats of Mulgoa, Riverstone and Penrith.

SCHOOL ETHICS CLASSES

Dr JOHN KAYE [9.10 p.m.]: Since its inception in 1880, special religious education in New South Wales public schools has unfairly and irrationally discriminated against the growing number of children from families that reject the organised religions on offer. Verity Firth is the first Minister for Education in 130 years to take up the challenge. By accepting the offer from the St James Ethics Centre to trial an ethics option, the Minister is taking an important step to addressing the absurd consequences of the monopoly power of organised religions over the hour. Since the passage of Henry Parkes' Public Instruction Act and the infamous compromise that handed over one hour a week to scripture, children from families that do not accept the religious choices on

offer have been forced to squander a valuable hour a week. The so-called settlement not only discriminated against children from atheist families, it also excluded those who followed a creed that was not offered in the school as well as the many parents who felt that religious instruction is a private matter.

Section 32 of the Education Act 1990 imposes no requirement on the non-attendees. It is only by practice that the hour is not to be gainfully used other than for religion and that practice is at last being challenged. The practice is discriminatory and wasteful and is founded only in the conviction held by some religions that their beliefs should hold a privileged position. That is not only clearly unacceptable in a multi-cultural and multi-faith free society but also deeply offensive to those who do not share confidence in the infallibility of the religious beliefs.

Professor Philip Cam from the University of New South Wales developed the course materials that invite students to develop responses to challenging ethical dilemmas. Ethics or the science of moral reasoning is a well-developed area of study and has been taught successfully in schools around the world. The developmental consequences for students are well documented and always positive. It is clearly understood that the course does not substitute for the values and ethical reasoning that are already taught across the curriculum in public education. It is surprising and alarming to watch a number of churches and religious organisations seek to stop the trial.

Jim Wallace, the managing director of the Australian Christian Lobby, vehemently attacked the secular nature of ethics in an article in the *Sydney Morning Herald* on 13 April. Mr Wallace's arrogant contention was that moral reasoning cannot stand without the Judeo-Christian basis on which he contends it is founded. Retired Brigadier Wallace is certainly entitled to his opinions, even if they are out-of-date, insulting, arrogant and ill-informed. However, his allegation that the ethics classes are designed to draw students away from the scripture classes is simply a lie. And even if it were not, does the brigadier have such little faith in the power of the religions he purports to defend that he is worried that offering an ethics alternative will result in an outbreak of atheism and heathenism? The next day, a report in the *Sydney Morning Herald* revealed that the Anglican Archbishop of Sydney, Peter Jensen, had visited the Premier to voice his concerns. Dr Jensen had previously written in the Anglican newspaper *Southern Cross*:

Be warned: if the Government allows this course to continue after the trial, it will jeopardise religious education in public schools...

This week, Robert Haddad, the director of the Confraternity of Christian Doctrine for the Catholic Archdiocese of Sydney, told the *Sydney Morning Herald* that alerting all parents to the existence of the ethics class was "an example of the abuse that will inevitably follow". Dr Jensen, Brigadier Wallace and Mr Haddad all share a lack of confidence in their faith's ability to maintain market share in the face of a secular alternatives. In effect what both of these men are saying is that religion should not have to compete in the world of ideas. They are effectively arguing for the entrapment children in their classes by maintaining a veil of ignorance about the alternatives.

Reverend Fred Nile, the Leader of the Christian Democratic Party, called for the trial to be postponed pending further consultations with all church leaders. He was also upset by the idea that the ethics alternative was not kept secret to the families that did not attend scripture classes. A liberal democracy does not entertain the right of churches to restrict options available to the non-believing public. The Sydney Anglicans, the Catholic Church and even Fred Nile are free to tell their followers what they might or might not believe, and what their children might or might not be exposed to. It is ultimately up to the followers whether they continue to follow and believe.

However, it is completely unacceptable that organised religions seek to restrict the rights of those who do not subscribe their creeds. Ethics classes in public schools are none of their business and they should not be allowed to undermine the options available to children who do not follow their creed. The Greens welcome the trial and congratulate the St James Ethics Society, Prof Philip Cam, the Parents and Citizens Federation and the Minister for Education and Training on the roles they have played in offering students ethics classes as an alternative in special religious education.

YUKON RIVER QUEST

The Hon. HELEN WESTWOOD [9.15 p.m.]: I inform the House about an amazing group of inspirational women. They are not famous or elite athletes, nor are they Olympians, but they are certainly superwomen. Not only are they the first Australian team to compete in Canada's gut-busting annual Yukon

River Quest, which is the premier paddling event in Canada's north, but they are also a team of all women. They are ordinary Sydney women—or should I correct that and say extraordinary Sydney women—aged between 49 and 62 years. Each of them has survived breast cancer, or is a close supporter of someone who has.

Nine women—Wilma Kippers, Deb Hirst, Angela Aston, Tracey Bowne, Rosie O'Donnell, Vicki McLean, Sue McClelland, Liz Trenam and Ruth Turnell—have formed a team called the Yukon Buddies, and all of them are members of the Sydney Dragon Boat Club, Dragons Abreast. Most members of the House would not be aware of the Yukon River Quest. I will inform the House of just what a challenge these women have ahead of them. The annual Yukon River Quest is the world's longest annual canoe and kayak marathon, and it will be held from 30 June to 4 July 2010. The 740-kilometre, or 460-mile, wilderness adventure paddling race is held on the Yukon River starting from Whitehorse, which is approximately 2,000 kilometres north of Vancouver, and ending in Dawson City, which is in Canada's Yukon Territory just south of the Arctic Circle.

The Yukon River Quest is known as the Race to the Midnight Sun, as the sky never gets dark. Paddlers race around the clock. It is a true marathon with just two mandatory rest stops over the course of the entire event: one of three hours and one of seven hours. I am in awe of what these wonderful women are about to achieve. The swiftest voyageur canoes and their ultra-fit crews have completed the race in just over 40 hours. Voyageur canoes are large traditional Indian canoes, first used by the early fur traders, called the voyageurs, to haul their goods in the Canadian wilderness. The Yukon Buddies were inspired to enter the race after viewing the film *River of Life*, which tells the story of the Paddlers Abreast team, a group of breast cancer survivors from the Yukon. This year will be Paddlers Abreast tenth Yukon River Quest anniversary.

Australia's own Yukon Buddies, at the helm of their own voyageur canoe, are thrilled to be joining them for their maiden voyage. By race time at the end of June, 15 months of blood, sweat and tears will have gone into preparing for the 740-kilometre ordeal. Training takes up large chunks of the Yukon Buddies' lives as they prepare for the event. On top of normal dragon boat club training three times weekly, they also clock up many hours of extra paddling time in a seven-seat outrigger canoe, an OC7, because no voyageurs are available in Australia. They train also in kayaks. Rigorous cross-training sessions in the gym and pool help make up their fitness regime.

Every month or so, the Aussie girls get really serious. In order to simulate Yukon racing conditions, they have paddled continuously around Sydney's waterways in a dragon boat for 24 hours, spent an entire weekend white-water kayaking, and in December 2009, they completed the VicSuper Murray Marathon—a mere 404-kilometres of paddling over five days. As the call of the Yukon gets closer, the girls expect training will really be stepped up. They can be seen every Sunday morning in their outrigger on Middle Harbour. In a few weeks they will complete the same course that forms the Hawkesbury River Classic, a paddle of some 140 kilometres.

To round out their preparation, they have undergone sessions with a sports nutritionist and a sports psychologist, and all of them will complete a first aid course. The Yukon Buddies have self-funded all of their preparations for taking on this impressive challenge, including the purchase of the outrigger, paddles, equipment, special clothing, training, insurance, air fares and accommodation. They would welcome any generous sponsors who would be willing to support their endeavour. Clearly those women would be great promotional assets to any sponsor. These remarkable women want to use their spectacular endeavour to promote Dragons Abreast Australia. One of the Yukon Buddies, Wilma Kippers, said:

It's thanks to Dragons Abreast that we all came to paddling in the first place, and it would be good to be able to give something back. Members of Dragons Abreast give a face to the breast cancer statistics and the organisation is dedicated to the goal of promoting fitness and fun after breast cancer.

The beauty of Dragons Abreast is that breast cancer survivors of all ages and fitness levels can join in and feel included.

I congratulate the Yukon Buddies and all the Dragons Abreast team for their dedication and commitment to raising awareness of breast cancer. They are truly inspirational and provide positive role models for all women, particularly those living with cancer. Of course, they also have a great support team behind them in the Dragons Abreast Club and the land crew, which is made up of their husbands and partners, who have been very supportive. When the women were trying to get insurance to cover them for their Canadian endeavour, they were categorised as "extreme athletes". However, I think of them as absolutely inspirational women and I wish them all the best for their endeavours at the end of June.

WOLLONGONG HARBOUR DEVELOPMENT

The Hon. GREG PEARCE [9.20 p.m.]: Yesterday I asked the Minister for Planning, Minister for Infrastructure, and Minister for Lands a question about Wollongong Harbour. The reason for the question was that members of the community and other interested people in Wollongong and the Illawarra had expressed great concerns about the process currently underway to assess the suitability of the Wollongong Harbour precinct to be placed on the New South Wales Heritage Register and plans that the lands department may have to redevelop the land around Wollongong Harbour.

In my capacity as shadow Minister for the Illawarra I have met with, and heard the concerns of, local community members, the National Trust and other interested groups in relation to Wollongong Harbour. The simplest way to inform the House about those concerns is to refer to the public meeting that was held on 16 February this year to discuss the harbour development guidelines. A number of speakers were at that meeting, which was attended by several hundred people, all with concerns about what is potentially going to happen to Wollongong Harbour.

Wollongong Harbour is one of great beauty but it is also of considerable heritage importance. It is also a working harbour and a place of great recreation. The meeting heard from representatives of the National Trust, Illawarra and Shoalhaven branch, who expressed concerns about the process for the harbour precinct to be placed on the New South Wales Heritage Register. They also expressed their concerns about the so-called development guidelines that have been produced in relation to potential redevelopment of the harbour, concerns as to the details of building dimensions, the large-scale of what seemed to be possible with perhaps up to 11 two-storey buildings, kiosks and a boardwalk, but no statement on the proposed financial gain from the development.

Representatives of the Wollongong Yacht Club were present, as were representatives of the Wollongong Fishermen's Co-Op and representatives of Neighbourhood Forum Five. All of these groups expressed concerns as to whether the harbour would continue to be a working harbour. They expressed concerns about the lack of maintenance of 30 of the buildings and facilities around the harbour, and they expressed a great deal of concern to ensure that the recreational amenity and the green space of the harbour should be maintained. Even the South Coast Labour Council was leading the fight to try to ensure that Minister Kelly, who has a very considerable conflict of interest in this matter—he is the Minister responsible for heritage listings, the Minister for Planning and the Minister responsible for, shall we say, utilising the assets the Government holds through lands, being the sole consent authority in relation to the harbour. When answering my question yesterday, Minister Kelly really did not address that conflict of interest.

Wollongong Harbour is beautiful. It has significant heritage importance going back to colonial days. In essence, it is the only working harbour between Sydney and Ulladulla. It is used by all sorts of people, including the Belmore Boat Owners' Association, but very much by local residents. We need to see some real action from this Government, from Minister Kelly, to ensure that the harbour and its precincts are listed as a heritage item, and that before any development takes place there is proper and widespread consultation, and a proper conservation plan. We also we need to understand the financial arrangements in relation to any future development.

PADDINGTON AND BEROWRA WATERS PLANNING

Ms SYLVIA HALE [9.25 p.m.]: Part 3A of the Environmental Planning and Assessment Act is notorious. It allows the Minister for Planning to usurp a council's powers to determine developments in a council's area if the Minister decrees that the project is a major development or a development of State significance. Part 3A has allowed the Government to ruthlessly approve development applications that are totally opposed by the communities most affected by them. Needless to say, the chances of obtaining approval are infinitely greater if the applicant is a donor to the Australian Labor Party.

The following are two examples of how part 3A is being used to ride roughshod over community concerns, environmental issues and the fundamentals of any democratic process. The first is the redevelopment of the College of Fine Arts site in Paddington by the University of New South Wales. No-one denies that existing conditions for staff and students are intolerable and that the site needs to be redeveloped. What is unacceptable, however, is the approval process. One of the main concerns voiced by local residents is that construction will take more than two years to complete.

During that time, trucks will remove debris from the site and bring in building materials. Despite not being the approval authority, Sydney City Council was able to broker a compromise agreement between Paddington residents and the university about the streets that trucks would use during construction works and the times that trucks would use them. These negotiations were conducted in good faith, or so the local residents thought, and the university agreed that Greens Road rather than Napier, Selwyn and Albion streets would be used for truck access to minimise the impact on local residents' lives and amenity.

But despite this apparent agreement, the university has now turned its back on the community and has applied to the Minister for Planning to modify about one-third of the conditions of the part 3A approval to allow it to use Napier, Selwyn, and Albion streets for truck access, despite Greens Road being the most suitable route. Clearly, the university does not give a toss about the Paddington community. It is prepared to ignore both residents and the elected council and go to the Government for permission to bully its way through residential streets. It also appears that the university is indifferent to its students, who are not to be relocated during the redevelopment. Surely for occupational health and safety reasons alone it is not desirable for students to be present on a very confined site while major building works are in progress, especially when a nearby vacant educational building is available to accommodate them.

Across the harbour, in the Marramarra National Park area, there is another example of a development that is totally opposed by the communities most affected by it, but which is receiving favourable treatment from the Minister for Planning. The development in question relates to the Berowra Waters Eastside Marina. The Major Development State Environmental Planning Policy outlines the threshold for marina projects to be declared major projects. Marinas of more than 30 vessels in Sydney Harbour, Middle Harbour, North Harbour, Botany Bay, Port Hacking, Broken Bay or associated tidal waters are caught by this requirement. The Minister may, however, decide that a marina facility, even if it meets this threshold, is of local environmental planning significance only and leave the decision to the local council. In the Berowra Waters case the Minister has declined to do so.

Minister Kelly has received a request to modify a development approval granted to Cameron Brae Pty Ltd in December 2001. The so-called "modification" of the Berowra Waters Eastside Marina is opposed by local residents because of its environmental impact. The Environmental Defenders Office [EDO] has drawn attention to the fact that the original approval was in breach of the Environmental Planning and Assessment Act. The original consent by a former Minister for Planning was incorrectly classified as "non-designated development", thus allowing the developer to bypass the need to prepare an environmental impact statement, as required by section 96 (2) of the Environmental Planning and Assessment Regulation 2000.

The proposed marina had a capacity of 31 vessels and less than half a car park space per vessel—features that required it to be classified as a designated development. This fact has been drawn to the attention of the Minister for Planning. The Minister should refuse the modification application and require the developer to submit a new development application and an environmental impact statement. The EDO's advice to its clients the Association for Berowra Creek Inc. is clear:

... if the Modification is approved under s.92(2) or is not classified as designated development under Part 2 of schedule 3 of the EP&A Regulation, the Minister for Planning will have breached the requirement of the EP&A Act. In these circumstances any resultant approval may be invalid.

Perhaps it is mere coincidence that David Hazlett's company, Cameron Brae Pty Ltd, is a donor to the Australian Labor Party and has employed former Labor mover and shaker Graham Richardson to lobby for other developments in the Berowra Waters area. I and the Association for Berowra Creek hope that the Minister will place the interests of the community above those of a Labor donor and its lobbyist.

WESTERN DIVISION OF COUNCILS CONFERENCE

The Hon. CHRISTINE ROBERTSON [9.30 p.m.]: I had the pleasure of representing the Minister for Planning, the Hon. Tony Kelly, and the Minister for Local Government, the Hon. Barbara Perry, in officially opening the Western Division of Councils Conference at Bourke Bowling Club on Monday 1 March 2010. The seven-hour drive from my home in Duri gave me the opportunity to see firsthand how much rain had fallen in western New South Wales. It was good for the heart to see seed on the sand and clay country all the way. I was told that some farmers even have to slash and poison because of the massive growth.

The warm welcome at the pre-conference reception on the Sunday night was a great opportunity to meet people and have an informal chat. I then opened the Western Division conference on the Monday morning.

The Western Division councils are Balranald, Bogan, Bourke, Brewarrina, Broken Hill City, Carrathool, Central Darling, Cobar, Hay, Lachlan, Moree Plains, Walgett and Wentworth. These councils represent about 40 per cent of New South Wales by area. The agenda papers gave notice of motions for consideration at the conference on issues central to the concerns of far west New South Wales and most other country areas. It is interesting to note when attending these functions that issues affecting the country are reflected across New South Wales. The motions that were passed will then progress to the Local Government and Shires Associations Conference in June.

The conference was scheduled for two days, such was the volume of excellent topics to speak about and interesting guest speakers to contribute. I found the address by Bourke Magistrate Roger Clisdell on crime in country communities very interesting. There was an item on the agenda relating to law and order so it was a very informative contribution. The magistrate addressed perceptions relating to young people and crime and punishment, young people's risk taking, and ideas for rehabilitation to ensure that young people have the opportunity to lead functional and useful lives. I was encouraged by the quality of the motions for consideration during the conference. In particular, in recent years air services have been severely affected by commercial airline decisions to remove them. One motion called for political parties to commit to underwriting commercial air services to the region. As discussed in the conference papers, it stated:

On 19 December 2008, REX Airlines ceased fulfilling their contracts of servicing the towns of Bourke, Walgett, Cobar, Lightning Ridge and Coonamble. These services effectively penetrated approximately 25 per cent of North Western New South Wales, providing an essential and desirable air service giving linkage to Sydney.

One of the charming mayors actually suggested that I should have chartered a plane to open the conference because of the discontinuation of those services. I cannot imagine the Minister whom I was representing being amenable to the cost of chartering a plane to fly to Bourke. Air services in the north-west are now very poor and mostly non-existent, and I understand discussions are ongoing with the Commonwealth Government on this issue. Transport infrastructure—in particular, the inland rail line and roads funding—were also high on the agenda. Rail and road freight continue to be major concerns for country councils and communities right across New South Wales.

Another key matter for the conference's consideration was health, including the motion to write to the Premier and the Minister for Health emphasising the importance of regional base hospitals being developed around communities of interest. Further investigation was called for into the contract fee arrangements for locum doctors in local hospitals. It is interesting, given all the discussions this week about health reform, that issues such as these will be addressed in the new health process.

Water is of course vital to country communities so there were various motions regarding water sharing, allocations, the Murray-Darling Basin cap, water and sewerage pricing, and transferring coastal floodwaters inland. Electricity pricing and the Independent Pricing and Regulatory Tribunal determination process were also important topics for the conference. In recent weeks we have seen a range of measures to assist those in need of assistance in coping with price increases that have been and will be particularly high in country areas.

Local government persons across New South Wales are moving towards good civic leadership through improved manuals and training for councillors, community engagement facilitation and working together. Part of my role was to talk about these issues and the representation of women and Aboriginal people. It is important to recognise that the shires of the Western Division have gone a long way down the track towards implementing the required reform changes. On behalf of everyone involved in the conference, I thank Councillor Ray Longfellow, President of the Western Division Councils and Mayor of Central Darling. Significant and important issues for Western Division councils were discussed. The commitment of individual councillors of western New South Wales to their communities cannot be denied. It was very exciting to be present to celebrate with them.

[Time for debate expired.]

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

Motion agreed to.

The House adjourned at 9.35 p.m. until Thursday 22 April 2010 at 11.00 a.m.
