LEGISLATIVE COUNCIL

Tuesday 8 June 2010

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The President (The Hon. Amanda Ruth Fazio) took the chair at 2.30 p.m.

The President read the Prayers.

The PRESIDENT: I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

Office of the Governor
Sydney 2000

J. J. Spigelman
LIEUTENANT-GOVERNOR

The Honourable James Jacob Spigelman, Chief Justice of New South Wales, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, Professor Marie Bashir having assumed the administration of the Government of the Commonwealth of Australia, he has this day assumed the administration of the Government of the State.

6 June 2010

LEGISLATIVE COUNCIL VACANCY

Resignation of the Honourable Ian Michael Macdonald

The PRESIDENT: I report the receipt of the following message communication from Her Excellency the Governor:

Office of the Governor
Sydney 2000

7 June 2010

The Honourable Amanda Fazio MLC
President of the Legislative Council
Parliament House
Macquarie Street
SYDNEY 2000

Dear President,

I have the honour to inform you that I have received a letter from the Honourable Ian Macdonald MLC tendering his resignation as a Member of the Legislative Council of New South Wales. This was received by my Official Secretary today, 7 June 2010.

I have acknowledged receipt of the letter from Mr Macdonald and have informed him that you have been advised of his resignation.

Yours sincerely

Professor Marie Bashir AC CVO
Governor of New South Wales

I have acknowledged Her Excellency's communication and the resignation has been entered in the Register of Members of the Legislative Council.

INDUSTRIAL RELATIONS AMENDMENT (CONSEQUENTIAL PROVISIONS) 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 Robertson.

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 ordered to stand as an order of the day for a later hour.

NATIONAL PARKS AND WILDLIFE AMENDMENT BILL 2010

WEAPONS AND FIREARMS LEGISLATION AMENDMENT BILL 2010

COMPANION ANIMALS AMENDMENT (OUTDOOR DINING AREAS) BILL 2010

Messages received from the Legislative Assembly agreeing to the Legislative Council's amendments.

MINISTRY

The Hon. JOHN HATZISTERGOS: I inform the House that on 5 June 2010 Her Excellency the Governor accepted the resignations of the Hon. Graeme James West, MP, as Minister for Juvenile Justice, and the Hon. Ian Michael Macdonald, MLC, as Minister for State and Regional Development, Minister for Mineral and Forest Resources, Minister for Major Events and Minister for the Central Coast. On the same day Her Excellency appointed the following persons as members of the Executive Council for the offices indicated:

The Hon. Eric Michael Roozendaal, MLC, as Minister for State and Regional Development
The Hon. John Cameron Robertson, MLC, as Minister for the Central Coast
The Hon. Barbara Mazzel Perry, MP, as Minister for Juvenile Justice
The Hon. Kevin Patrick Greene, MP, as Minister for Major Events
The Hon. Paul Edward McLeay, MP, as Minister for Mineral and Forest Resources

I inform the House further that in the representation of Government responsibilities in this Chamber I will act in respect of my own portfolios of Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice President of the Executive Council and will represent the following Ministers in the other House:

The Hon. Kristina Keneally, MP, Premier, and Minister for Redfern Waterloo;
The Hon. Carmel Tebbutt, MP, Deputy Premier, and Minister for Health; and
The Hon. Verity Firth, MP, Minister for Education and Training

The Hon. Eric Roozendaal, MLC, Treasurer, Minister for State and Regional Development, and Special Minister of State, will act in respect of his own portfolios and will represent the following Ministers in the other House:

The Hon. Linda Burney, MP, Minister for the State Plan, and Minister for Community Services;
The Hon. Michael Daley, MP, Minister for Police, and Minister for Finance; and
The Hon. Jodi McKay, MP, Minister for Tourism, Minister for the Hunter, Minister for Science and Medical Research, and Minister for Women

The Hon. Anthony Kelly, MLC, Minister for Planning, Minister for Infrastructure, and Minister for Lands, will act in respect of his own portfolios and will represent the following Ministers in the other House:

The Hon. Steve Whan, MP, Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs;
The Hon. Barbara Perry, MP, Minister for Local Government, Minister for Juvenile Justice, Minister Assisting the Minister for Planning, and Minister Assisting the Minister for Health (Mental Health);
The Hon. Phillip Costa, MP, Minister for Water, and Minister for Corrective Services; and
The Hon. Frank Terenzini, MP, Minister for Housing, Minister for Small Business, and Minister Assisting the Premier on Veterans' Affairs

The Hon. John Robertson, MLC, Minister for Transport, and Minister for the Central Coast will act in respect of his own portfolios and will represent the following Ministers in the other House:

The Hon. Frank Sartor, MP, Minister for Climate Change and the Environment, and Minister Assisting the Minister for Health (Cancer);
The Hon. Paul Lynch, MP, Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs; and
The Hon. David Borger, MP, Minister for Roads, and Minister for Western Sydney

The Hon. Peter Primrose, MLC, Minister for Ageing, Minister for Disability Services, Minister for Volunteering, and Minister for Youth, will act in respect of his own portfolios and will represent the following Ministers in the other House:

The Hon. Kevin Greene, MP, Minister for Gaming and Racing, Minister for Sport and Recreation, and Minister for Major Events;
The Hon. Virginia Judge, MP, Minister for Fair Trading, and Minister for the Arts; and
The Hon. Paul McLeay, MP, Minister for Mineral Resources, Minister for Ports and Waterways, and Minister for the Illawarra

NSW FIRE BRIGADES

The Hon. MELINDA PAVEY [2.37 p.m.]: I seek leave to amend Private Members' Business item No. 294 outside the Order of Precedence for today of which I have given notice by omitting paragraph (a), and inserting at the end of paragraph (d) the words "subject to the redaction of any information that would identify individuals or otherwise have the capacity to prejudice any future disciplinary action or prosecution,".

Leave granted.

Motion by the Hon. Melinda Pavey agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs, NSW Fire Brigades or Emergency Management NSW:

(a) any report, preliminary or final, of a review into the workplace culture within NSW Fire Brigades conducted by KPMG and referred to publicly by the Minister and the Commissioner,

(b) any document which details the original terms of reference for the KPMG review,

(c) any report, preliminary or final, prepared by the independent panel of inquiry set up to examine aspects of the NSW Fire Brigades including training, staff conduct and workplace culture, chaired by Mr Alex Smith, former Deputy Director General of the Department of Premier and Cabinet, subject to the redaction of any information that would identify individuals or otherwise have the capacity to prejudice any future disciplinary action or prosecution,

(d) the strategic review conducted in 2007/08 by an external consultant into aspects of learning and development within NSW Fire Brigades, as referred to on page 60 of the 2009 Annual Report of NSW Fire Brigades, and

(e) any document which records or refers to the production of documents as a result of this order of the House.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Kayee Griffin tabled, on behalf of the Chair, a report entitled "Legislation Review Digest No. 8 of 2010", dated 8 June 2010.

Ordered to be printed on motion by the Hon. Kayee Griffin.

UNFLUED GAS HEATERS

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 12 May 2010, additional documents relating to unflued gas heaters received on 3 June 2010 from the Director-General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

CBD METRO

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 20 May 2010, documents relating to an order for papers regarding the audit of CBD Metro compensation claims received on 3 June 2010 from the Director-General of the Department of Premier and Cabinet, together with an indexed list of documents.

UNFLUED GAS HEATERS

Production of Documents: Report of Independent Legal Arbiter

The Clerk announced the receipt, pursuant to standing orders, of the report of the independent legal arbiter Sir Laurence Street dated 4 June 2010, on the disputed claim of privilege on papers relating to unflued gas heaters. The Clerk announced further that the report is available for inspection by members of the Legislative Council only.

PETITIONS

Religious Education and School Ethics Classes

Petitions opposing the newly proposed secular humanist ethics course in public schools and calling on the Government to support the cancellation of the ethics course and express its support for scripture classes, received from **Reverend the Hon. Fred Nile**, t**he Hon. Christine Robertson** and **Reverend the Hon. Dr Gordon Moyes**.

Religious Education and School Ethics Classes

Petition requesting that the House call on the Government to ensure that planned ethics classes are offered at a separate time from special religious education classes, received from **Reverend the Hon. Dr Gordon Moyes**.

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 items Nos 148, 228 and 265 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.

Private Members' Business item No. 278 outside the Order of Precedence withdrawn by Dr John Kaye.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Don Harwin.

Government Business Orders of the Day Nos 1 to 5 postponed on motion by the Hon. Tony Kelly.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2010-2011

Copies of Budget Paper No. 1—Budget Speech 2010-2011; Budget Paper No. 2—Budget Statement 2010-2011; Budget Paper No. 3—Budget Estimates 2010-2011, Volumes 1 and 2; Budget Paper No. 4—Infrastructure Statement 2010-2011; and Budget Overview 2010-2011 tabled.

Ordered to be printed on motion by the Hon. John Hatzistergos.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [2.52 p.m.], by leave: I move:

That the House take note of the Budget Estimates and related papers for the financial year 2010-2011.

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

Leave granted.

The last time I addressed this House, the world was a very different place. A year ago, I stood here and delivered a Budget to protect jobs, as we faced the worst economic crisis in over 75 years.

It was a Budget with infrastructure and services at its core. It was a Budget which secured our AAA credit rating. We supported jobs and lay the groundwork for the long-term growth of our economy.

This Government met the global economic challenge head-on and delivered. Our decisive and timely response positioned New South Wales to lead every other Australian State and Territory into the recovery.

Today, we consolidate that recovery and take New South Wales forward into a new era of growth and progress.

The beacon of hope I talked about last year has lit the path to prosperity.

Today's Budget builds on the foundations we laid a year ago and outlines the Keneally Labor Government's vision for the future of this great State.

We will invest in what is important to New South Wales families—essential frontline services, new infrastructure and jobs—and take New South Wales forward along a path which is responsible, fully-funded and maintains our solid-gold AAA credit rating.

Budget Result

At the Half-Yearly Review last December—I forecast that as our economy recovered, we would return to surplus in 2010-11.

Today, I proudly announce New South Wales is—in fact—already back in the black. An impressive achievement thanks to sound financial management—a surplus two years earlier than forecast in last year's Budget.

The Budget result for this year represents a $1.1 billion turnaround—and over the next four years, Budget surpluses will be worth a total of $3.15 billion.

That is an average Budget surplus of around $800 million a year, a testament to our strong economic management—consistent with our record of delivering Budget surpluses.

At a time when many other economies around the world—particularly in Europe—are struggling, the financial position of our State is strong.

Without our record infrastructure stimulus and investment package—measures that the Liberals and Nationals did their best to block—the New South Wales economy would have gone backwards.

To consolidate and build on our recovery in this period of persistent global uncertainty, we will continue with the biggest infrastructure building program in the State's history investing $62.2 billion in infrastructure over the next four years—supporting up to 155,000 jobs a year.

Economic Outlook

In last year's Budget, the global financial crisis meant New South Wales took a $10 billion hit to our four-year revenue forecast. The impact on this year's Budget forecast is about $5 billion.

Despite this recovery, we cannot be complacent. The reduced revenue forecast is still a significant challenge—but one we can overcome with our strong economic management.

Our balance sheet is healthy today because of this Government's long-held responsible fiscal strategy—using periods of strong revenue growth to reduce debt and other financial liabilities—and create a shock absorber for tough times.

This Budget maintains our fiscal strategy and our record as responsible, and successful, economic managers. The early return to surplus means that general government net debt will now peak at 2.7 per cent of gross state product rather than the 3.9 per cent forecast last year.

This is projected to further decrease to 2.5 per cent by 2013-14—a third of what the Coalition left New South Wales in 1995.

Gross state product is now expected to post a 3 per cent turnaround compared to the forecast in last year's Budget.

This is an $11.5 billion turnaround in the New South Wales economy over the past year.

That growth is expected to be led by the private sector, with higher consumer spending along with higher housing and business investment. The New South Wales economy is also forecast to grow at above-trend rates for the next two years.

We are showing strength at a time when much of the world is still struggling.

During the downturn, unemployment for 2010-11 was forecast to average

8.5 per cent. We are now seeing a strong recovery in the New South Wales labour market.

Today, unemployment is forecast to average 5.5 per cent for 2010-11.

That 3 per cent change—equivalent to nearly 110,000 jobs—is a measure of the success of the New South Wales and Commonwealth Governments' decisive stimulus response.

Land, Housing and Construction Sector

There is good news in the vital New South Wales housing and construction sector.

The number of zoned lots on the fringe of Sydney is now at record levels and in recent months there has been growth in the number of residential building approvals. This Budget will provide a further boost to these positive trends.

We will introduce measures to get more houses built, to improve supply, and make it easier for people to buy a home.

I can announce, in an Australian first, that the Keneally Government will cut stamp duty to zero under the New South Wales Home Builder's Bonus—a $140 million investment in the State's property sector.

From July 1 this year, no one will pay stamp duty if they are buying a home worth up to $600,000 off-the-plan in the pre-construction stage.

That is zero stamp duty on new homes and apartments—for two years.

Zero stamp duty for families and investors and zero stamp duty for up-sizers and down-sizers.

A saving of up to $22,490—money straight back into the pockets of New South Wales families.

Further—if you buy a home worth up to $600,000 that is under construction or newly-completed, the Keneally Government will cut your stamp duty by 25 per cent.

That is a saving of up to $5,623.

First home buyers will also benefit from the New South Wales Home Builder's Bonus with total benefits of up to $29,490 giving young families an important head start.

Project financing can be a hurdle to new home construction, especially for apartments. So by helping people to buy off-the-plan and to buy early, we are giving builders a better chance of securing project finance.

These benefits will be delivered with our historic planning reforms and are part of the Keneally Government's plans to energise the New South Wales housing and construction sector.

Our reforms include capping local government infrastructure levies, providing $35 million in direct assistance to local councils to fast-track development and a further $8.9 million to accelerate our planning reforms.

The New South Wales housing sector is worth $17 billion a year and makes up almost 5 per cent of the State's economy.

Our initiatives represent a massive investment in the New South Wales housing construction sector, benefiting families and strengthening the New South Wales economy.

Today, I can also announce another zero stamp duty initiative.

For the next two years, when people aged over 65 purchase a newly-constructed home worth up to $600,000, they will pay no stamp duty—a saving of up to $22,490.

This will apply to people over 65 who sell their primary place of residence and move to a newly-constructed home—whether it's a house or an apartment. This measure will assist over 65s considering downsizing.

It won't matter at what stage of construction the home is—they will pay no stamp duty.

These initiatives build on the Keneally Government's commitment to improve housing supply in New South Wales and boost housing construction rates—a key driver of economic growth.

Increasing New South Wales's Competitiveness

With New South Wales in a stronger financial position, the Keneally Government will support the future of businesses across the State.

We will work with them hand in hand to take full advantage of our economic recovery.

Today, I am proud to announce that the Keneally Government will further cut payroll tax—not once, but twice.

This will contribute to saving New South Wales businesses $4 billion over the six years to 2013-14.

These cuts will be simple, straightforward, permanent and fully-funded.

The payroll tax cut due to come into effect on January 1, 2011 will now be fast-tracked and brought forward to July 1 this year.

And, there will be another payroll tax cut on January 1, 2011—lowering the New South Wales payroll tax rate to 5.45 per cent from that date.

This is the lowest payroll tax rate in New South Wales in more than 20 years.

This is a huge boost for business as we continue to grow our State's economy together. Businesses which did it tough and supported jobs during the global financial crisis deserve extra assistance now to take full advantage of the recovery.

Our message to the New South Wales business community is clear: The Keneally Government supports you—and will assist your future plans to grow with this State.

Remember that since 1995, the New South Wales Labor Government has consistently cut payroll tax from the 7 per cent we inherited from the previous Coalition Government.

In the two years from the start of 2009, we will have cut payroll tax four times. These tax cuts will allow New South Wales businesses to plan for the future with certainty, knowing the cuts are permanent and fully funded.

And we will continue to relieve business from the burdens of inefficiency and waste by slashing red tape through our $500 million savings target by June next year - with $338 million of red tape already slashed.

We are working hard to support our innovative and globally competitive economy by attracting new investment and creating and sustaining jobs which complement New South Wales's highly skilled workforce.

That is why this Budget adds a further $40 million to the State's Major Investment Attraction Scheme to secure large 'footloose' projects for New South Wales and the jobs they generate.

We will provide $20 million for a film fund to keep New South Wales at the forefront of international film production, and $5 million has been allocated to support our local film and television industry

And to drive investment and growth in the State's defence industry, $75 million will be invested to secure projects and build defence industry capability in the State.

A dedicated defence hub will be created in Sydney's high tech corridor at Macquarie Park—focussing on defence systems, electronics and other related advanced technologies.

New South Wales is the smart State.

And these important measures are part of our strategy to continue to develop high value sectors of the diversified New South Wales economy. This strategy includes $52.9 million in 2010-11 to attract tourism to the State.

The centrepiece of our cultural and tourist industry is the Sydney Opera House—attracting more than 7.4 million visitors a year.

The Government will invest $152 million over four years on improving the forecourt and upgrading vehicle access to improve public safety and security at the Sydney Opera House—the first major construction work undertaken at our national icon in the 37 years since it was completed.

Better Services—Infrastructure

The State and Commonwealth stimulus measures were critical to putting Australia and New South Wales into the strong financial position we are in today.

As the stimulus works its way through this year's Budget numbers and the next, our infrastructure investment will remain at all time highs with a total of $16.6 billion being invested in 2010-11. We also will build on the success of the Community Building Partnership introduced last year, which has supported local jobs and is delivering 1,180 community infrastructure projects around New South Wales.

A further $35 million will be invested in this Budget to continue the fund.

Environment

This Budget continues initiatives to support the environment and combat climate change—$222.6 million will be invested in a range of programs under the Climate Change Fund including $36.4 million to support energy efficiency in households and schools and $21.7 million to support six large scale renewable energy generation projects.

Improving Public Transport

In February, the Government released its fully-funded $50.2 billion *Metropolitan Transport Plan*.

Today, I can announce that $22.3 billion will be invested over the next four years on delivering infrastructure projects outlined in the Plan.

That is, $22.3 billion for infrastructure delivering a better transport system.

We will invest more this year to fast-track public transport projects.

I can announce we will bring forward the purchase of 100 new buses—a $72.3 million investment—this is in addition to the 406 new buses being acquired over the coming year.

And we will start building the Lilyfield to Dulwich Hill light rail extension this year with $55 million provided in this year's Budget to accelerate delivery.

This Budget is about delivering the *Metropolitan Transport Plan.*

Our investment over the forward estimates includes:

- $1 billion to commence work on the $4.5 billion Western Express Rail Service with new platforms at city stations—and a 5 kilometre priority tunnel to separate western Sydney services from inner city trains to increase frequency and improve travel times on Western Sydney train services
- $1.7 billion to continue construction works for the South West Rail Link, due for completion in 2016
- $230 million for extensions to the Sydney light rail network including acceleration of the Dulwich Hill Light Rail extension with up to 11 new stations and another 5.6 kilometres of track
- Over $1.2 billion for bus priority measures and new bus depots along with more than 1,300 buses in four years
- $6.7 billion for passenger rail projects including the Rail Clearways program and 626 state-of-the-art carriages
- $56 million in cycleways to complete missing links
- $10.6 billion investment in the road network including $3 billion for the Pacific Highway, $750 million for the Hume Highway, $680 million for the Great Western Highway and $500 million for the Princes Highway.

We will invest over the forward estimates $450 million on commuter infrastructure—with more than $31 million being invested this year on building new and upgraded transport interchanges, with work to start this year at Werrington, North Strathfield, Sutherland, Kingswood, Granville, Narwee, Allawah, Kogarah and Fairfield.

And $167 million will be invested in 2010-11 to deliver an extra 7,000 commuter car park spaces to encourage greater public transport use.

Work will start on new car parks including Cabramatta, Mortdale, Mount Druitt, Padstow and Rockdale.

Real delivery backed by real dollars.

Law and Order

No government has invested more in our system of justice or provided greater support to police than this Government.

We now have the biggest, best-trained and best-equipped police force in the country.

The men and women on the frontline not only deserve our respect, they deserve the record investment in services we have consistently delivered.

That is why I am proud to announce a record police Budget this year of $2.8 billion. An investment that includes the latest technology and the best facilities.

The Keneally Government will invest $3.3 million this year to deploy 25 new mobile police command units—and we will invest $8.6 million this year to deliver a new twin-engine police helicopter.

We will invest $3.1 million in the continued roll-out of Tasers and related equipment and $3.8 million to fit out more police vehicles with the latest Automatic Number Plate Recognition technology.

In 2010-11, $38.9 million will be provided to complete the building and opening of seven new police stations at Burwood, Camden, Granville, Kempsey,

Lake Illawarra, Raymond Terrace and Wyong. And we will invest $1 million to build a tactical police training facility at Kingsgrove Police Station.

We will also invest heavily in justice and legal services—a record $828 million this year. We will build a new $94 million state-of-the-art justice precinct in Newcastle expected to open in 2014-2015. Planning will be completed this year and construction will start next year on the largest court complex outside Sydney.

We will also build a $15 million court complex for Armidale, to be completed in 2013. And $29 million will be invested in 2010-11 in the $96 million Supreme Court of New South Wales Law Courts building refurbishment.

Education and Youth

This Budget puts education at the forefront of the Government's priorities giving our children and young people the best opportunities to reach their potential in life.

Education makes up more than one fifth of the Budget—second only to our record investment in Health.

We have seen in recent years New South Wales lead the way in literacy and numeracy—with our students last year achieving the best results in the country for spelling and New South Wales with the highest percentage of students in the top band of numeracy in years 3, 5, 7 and 9.

This Budget builds on the achievements in these critical learning areas.

We will invest $124 million for our Best Start initiative for kindergarten students over the next four years—because we know that early intervention gets the best results when it comes to improving literacy and numeracy skills.

This Budget includes joint funding of $224 million under the Smarter Schools National Partnerships.

These Partnerships mean that, together with the Commonwealth, more than $1 billion in funding will flow into New South Wales schools over the next 4 years—specifically into schools serving disadvantaged communities.

These funds will be used to attract and reward high quality teachers, run specialist literacy and numeracy programs, and provide additional family support services.

In 2010-11 the investment in education infrastructure includes:

- $1.2 billion under the Building the Education Revolution program
- $46 million for IT projects and 8 major new school building projects—at Bega Public School, Clarke Road School and Karonga School, and high schools at Bomaderry, Cabramatta, Kyogle, Picton and Ulladulla
- $175 million to continue implementing 46 major building works projects including:
- Hazelbrook Public School
- Homebush West Public School
- Hurstville Education Precinct
- East Hills Girls and Boys High Schools
- Lisarow High School; and
- Wollongong High School of the Performing Arts.
- $395 million on minor school works across New South Wales including the *Principals Priority Building Program*, upgrades to student and teacher facilities and the *Building Better Schools* initiative for fencing, science labs, toilets, halls and gyms.

Together, with our recent increase in the school leaving age, we are strengthening the educational opportunities of school students in New South Wales.

As well as raising educational standards, we are equipping young people with the skills and experience they need for jobs and careers.

In this Budget we have committed more than $2 billion for vocational education and training to provide over 500,000 TAFE places as well as training for over 145,000 apprentices and to support some 20,000 young people who will commence a trade apprenticeship this year.

At a time when skills are in peak demand, trade schools are an important way of equipping our young people with vital skills.

Funding in 2010-11 includes a new trade school at Picton High as well as for the continuation of works at Chifley College in Bidwill, Wyndham College in Quakers Hill and Kingscliff TAFE.

The impact of the global financial crisis on our shores was felt strongly by our young people. Too often they are the first to lose their jobs in a downturn, and the last to find work in the recovery.

In this Budget we are boosting our youth and education programs with an additional $11.4 million over two years to support unemployed young people return to education or get into work.

This new package includes $5.5 million for 2,000 unemployed young people to undertake targeted pre-vocational training courses.

Our package also includes a further $3.9 million to fund employment advisers in schools and training centres in Western Sydney, the Central Coast and the Illawarra.

These advisers will assist our young people by providing them with a job road map and links to local training and employment opportunities.

Funding will also be provided to assist local police and community youth clubs [PCYCs] and youth centres so they can expand sporting facilities and leadership activities for our young people.

Health

Good health services are the lifeblood of healthy communities.

On a typical day in New South Wales almost 5,000 people are admitted to a public hospital, 17,000 people spend the day in a public hospital and 1,000 patients undergo surgery.

In this Budget, we are investing a record $16.4 billion in health services for the people of New South Wales—with around 30 per cent of this record investment boosting health services in rural and regional New South Wales—and nearly $1 billion invested in new and improved health infrastructure.

The National Health and Hospital Network Agreement hammered out at the Council of Australian Governments [COAG] is a fundamental reform to public hospitals and their funding. Through the agreement, our Premier secured $1.2 billion in additional funding over the forward estimates to shorten waiting times for elective surgery—implement a new four-hour target for emergency departments—provide 500 additional beds for acute and sub-acute care—complete 11,000 more elective surgery procedures—and deliver more facilities for regional and rural patients requiring longer-term care.

Investment in mental health services in this Budget will increase to over $1.2 billion in 2010-11, including $21 million dedicated to mental health capital works like new or expanded mental health facilities at Nepean, Hornsby, and Prince of Wales Hospitals and completion of the Child and Adolescent Inpatient Unit at Shellharbour Hospital.

It is one of this Government's proudest achievements that since 1995 we have upgraded or rebuilt nearly every New South Wales hospital.

Today, we advance that achievement with further funding for the two largest hospital projects in New South Wales history. In 2010-11, $111.5 million has been allocated to continue the major redevelopment of Liverpool Hospital, a further $82.2 million will fund the continued development of Royal North Shore Hospital and a further $36.4 million will continue the expansion and upgrade of Nepean Hospital.

I can also announce today a new $92 million clinical services building at Royal North Shore and $90 million over four years to build Stage One of Wagga Wagga Base Hospital and $35.9 million for Multi Purpose Services in rural communities.

We will increase investment in our Health Action Plan—Caring Together—to $125 million in 2010-11 to fund new clinical staff and improve patient care. And the Government will continue to support high quality clinical services with an investment of $76.4 million to include the roll out of electronic medical records and digital imaging.

We will invest $24.8 million into the New South Wales Ambulance Service to redevelop stations at Cessnock and Murwillumbah, complete stations from Batemans Bay to Byron Bay, upgrade technology and replace vehicles.

Protecting the Vulnerable

The State has a responsibility to care for and protect the most vulnerable in our community.

In 2010-11 we will invest more than $1.6 billion in Community Services, including $680 million for out-of-home care for children who cannot be cared for by their families, $409 million for statutory child protection and $338 million for prevention and early intervention.

In this Budget we continue our $750 million *Keep them Safe* program with an investment of $165 million in 2010-11. And we will expand the Community Builder's Grants Program by investing an additional $10 million over four years.

In 2010-11 the New South Wales Government will devote $2.4 billion for services to people with a disability, their carers and our older people. We are approaching the fifth year of the Government's $1.3 billion *Stronger Together* disability services program—and consultation for the next phase is underway.

Conclusion

The beacon of hope I spoke of last year has now lit a path to prosperity.

This Budget builds on our strong economic record and delivers for the people of New South Wales.

We are an economy built on diverse foundations ranging from professional and financial services, housing and construction, education, retail and manufacturing, to high technology, agriculture, tourism and natural resources.

And we are stronger and more resilient for that diversity.

This Budget builds on that strength.

This Budget helps families and businesses.

This Budget boosts jobs and infrastructure investment.

Together we stood firm against the global economic crisis and together we will share the rewards of recovery as we build the next phase of our economic growth.

This Budget secures New South Wales's economic future.

I commend this Bill to the House.

Debate adjourned on motion by the Hon. Don Harwin and set down as an order of the day for a later hour.

ANZAC MEMORIAL (BUILDING) AMENDMENT BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [2.53 p.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.

More than 10 years before the Anzac Memorial Building in Hyde Park was completed in November 1934, a legislative base was established for its operation in the form of the Anzac Memorial (Building) Act of 1923. The Act was designed to unify under the care of a trust a number of fundraising efforts that had first emerged during World War I, each with differing memorial proposals. The trust initially comprised the Premier, the Leader of the Opposition and the Lord Mayor, along with three ex-service organisations, including the forerunner of the RSL. The Commonwealth Bank and the Public Trustee also served on the trust as keepers of the funds. This trust successfully oversaw the worldwide design competition and continued fundraising that eventually led to the building of a most remarkable memorial, one that is rich in symbolism and yet simple in its dignity.

The architectural achievement alone is testimony to the legacy that the building's depression era workers, many of whom were returned servicemen themselves, have bequeathed to succeeding generations. The aesthetic merit only serves to enhance the purpose for which it was built—this solemn memorial stands in silent testimony to wartime sacrifice. The Anzac Memorial Building was the culmination of post-World War I efforts to erect memorials in every Australian town and suburb. These war memorials, of which there are believed to be more than 3,000 throughout New South Wales, were built to provide places of reflection on the sacrifices of the past and comfort for the families of the fallen.

The establishment of the Veterans Affairs portfolio in 2009 has enabled the New South Wales Government to give particular focus to preserving and restoring these memorials. All memorials serve to remind present and future generations of the sacrifices endured during wartime and the responsibility we have to honour those who served—they are precious tributes to the courage and mateship that are synonymous with our Anzac legend. The Anzac Memorial in Hyde Park is the pre-eminent expression of the outpouring of mourning after the Great War. With the passage of time, recognition has also been made of the immense sacrifices of the World War II generation and in the subsequent wars and conflicts that have plagued the latter half of the twentieth century. It now stands as a haven to the memory of those who have served in all wars.

The Anzac Memorial is indeed a substantial memorial befitting the heart of this nation's largest city. With the passage of time, many of our veterans are also ageing, especially those who fought during World War II and in Korea and Vietnam. Consequently, it is tremendously important that the wider community take greater responsibility for honouring our commitment to never forget their sacrifices. The New South Wales Government in recent years has contributed significantly to the preservation and enhancement of the State's principal war memorial. The Government's $6 million capital upgrade for the memorial was recently completed and the building reopened on the occasion of its seventy-fifth anniversary on 24 November 2009. This represented the first substantial renovation of the building since it was completed in 1934.

I am pleased to inform members that the professionalism with which this work was undertaken has been recognised, with the trustees and the Government Architect's Office winning one of the top National Trust Heritage Awards last month. The Government has also increased the memorial's budget support by $750,000 per annum, commencing in 2009-10, to bring the memorial's recurrent budget to a total of $1.25 million. This increase provides funds for enhanced security, additional regular maintenance and a curatorial capacity for the memorial's memorabilia. The next step is to undertake important and overdue reform of the memorial's governance and management. This initiative will be achieved through the Anzac Memorial (Building) Amendment Bill 2010 now brought before the House.

The trust has remained virtually unchanged since the 1920s. However, all parties involved, including the RSL, agree that a modernised and more strategic trust supported by the professional resources of government will ensure the memorial can continue to develop into the future, particularly in its education role. These fundamental reforms are being pursued in partnership with the RSL and will retain the essential non-partisan nature of the trust. Reform will ensure that the resources of government are available to the memorial. The recent significant contributions of the Department of Premier and Cabinet and the Government Architect's Office will continue, bringing a strategic focus and essential building expertise to the trust's work.

The State Library has made available its collection management expertise and the Department of Education and Training will facilitate enhanced curriculum connections with the new Spirit of Anzac exhibition, also opened in November 2009. In recognition of these essential contributions, clause 2 of schedule makes the Director General of the Department of Education and Training, the New South Wales Government Architect and the State Librarian trustees, in addition to the Premier, the Leader of the Opposition, the Lord Mayor of Sydney and the President of the RSL (New South Wales), who are currently trustees. The President of the TB Sailors, Soldiers and Airmen's Association of New South Wales (Inc.), which, along with the RSL, is one of the founding trustees, will continue on the trust until the association chooses to relinquish its post, referred to as the transition date in schedule 1. The TB association is nearing the end of a proud history of care and advocacy for the needs of veterans with tuberculosis. I would like to take this opportunity to acknowledge the many years of service given by the association's president, Mr Stan Poulsen, not only to those suffering the effects of tuberculosis, but also to the work of the Anzac Memorial.

New section 4 provides for the appointment of a veterans' representative, nominated by the RSL president, to replace the TB association president at a transition date provided for in new section 3 (5) in schedule 1. The Chief Executive Officer of the

New South Wales Trustee and Guardian will no longer be a trustee. Instead a community representative will be appointed by the Premier who has financial or business qualifications or experience that will assist the trustees. Both this person and the veterans' representative will have terms of three years, but will be eligible for reappointment.

New section 2 (1A) specifies the Premier as chairperson of the trustees, with new section 3 enabling the Premier to authorise a proxy to also exercise the functions of chairperson. The Premier's proxy will ordinarily be the Minister holding the portfolio of Minister Assisting the Premier on Veterans' Affairs. In the absence of the Minister Assisting, the RSL president, appointed as deputy chairperson by new section 2 (1B), will exercise the functions of chairperson. New section 5 in schedule will add to the powers of the trustees, a role promoting an understanding of Australia's military history and heritage, as well as conducting community education, a critical role that the memorial will be expected to play in coming years. New section 6 provides for the trustees to delegate their functions to any trustee or to the Department of Premier and Cabinet. The new Office for Veterans' Affairs in the Department of Premier and Cabinet will provide secretariat services to the trustees.

Minor amendments will also be made to the Anzac Memorial (Building) By-laws 1937. Schedule 2 of the bill seeks to modernise terminology and to update the quorum requirement to reflect the increased size of the trust. A further amendment to the Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 included in schedule 3 of the bill, appoints the RSL as Memorial Guardian, a role similar to that which applies to the Cenotaph in Martin Place. This appointment gives special honour to the RSL and its members, as well as a gatekeeper role in preserving the memorial's appropriate use. In these ways, the New South Wales Government will ensure that the Anzac Memorial Building remains at the heart of the whole community, fulfilling its commitment to remember. In the words of Laurence Binyon's *Ode to the Fallen*:

> … as we that are left grow old:…
> We will remember them.

We must ensure that the Anzac Memorial Building continues to inspire reflection on Australia's military past in our generation and for generations to come. The New South Wales Government remains committed to maintaining and equipping this vital work of remembrance. I commend the bill to the House.

The Hon. JOHN AJAKA [2.54 p.m.]: The Anzac Memorial (Building) Amendment Bill 2010 seeks to amend the Anzac Memorial (Building) Act 1923 in respect of the appointment of the number and identity of trustees of the Anzac Memorial Building, to include as a function of the trustees the education of the community about Australia's military history and heritage, and to appoint the Returned Services League [RSL] as the guardian of the Anzac Memorial Building. I note at the outset of my speech that the Opposition does not oppose the bill. The historical significance of the Anzac Memorial is to recognise and appreciate the great bravery and sacrifice of our soldiers, to which it pays tribute, and the assurance that it gives the families of the fallen that their loved ones will not be forgotten. I am not able to say it better than "Lest we forget".

The first Act of Parliament to provide for the operation of the Anzac Memorial Building in Hyde Park was the Anzac Memorial (Building) Act of 1923. This legislation was intended to unify, under the care of a trust, a number of fundraising efforts that had first emerged during the First World War. In 2008, former Premier Iemma commissioned an independent review of the governance arrangement and operational structure of the Anzac Memorial, which has become known as the Loxton review. The bill seeks to implement, for the most part, the recommendations of that review.

The trust has remained largely unchanged since the 1920s. The Anzac Memorial is presently governed by six trustees: the Premier of New South Wales; the New South Wales Leader of the Opposition; the Lord Mayor of Sydney; the Chief Executive Officer of the New South Wales Trustee and Guardian; the President of the Returned Services League of Australia, New South Wales Branch; and the President of the TB Sailors, Soldiers and Airmen's Association of New South Wales (Inc.). The bill seeks to appoint the Premier as chair of the trust, to be routinely represented by the Minister Assisting the Premier on Veterans' Affairs, as the proxy for the Premier who will also fulfil the functions of the chair, and to appoint the President of the New South Wales Branch of the RSL as the deputy chair of the trust. These two positions are now determined by the Act, so that the trustees will no longer have to elect a chair or deputy chair.

The bill also appoints the New South Wales Branch of the RSL as Guardian of the Memorial and adds to the trust the Director General of the Department of Education and Training, the New South Wales Government Architect, the State Librarian, and a community representative, appointed by the Minister, with financial and business experience. The intention of including the State Librarian is to utilise the State Library's collection management expertise and to enhance curriculum connections with the new Spirit of Anzac exhibition through the Department of Education and Training.

In addition, the bill removes from the trust the Chief Executive Officer of the New South Wales Trustee and Guardian and assigns a person nominated by the New South Wales Branch of the RSL as the veterans' representative—the position on the trust currently held by the President of the TB Sailors, Soldiers and Airmen's Association of New South Wales. This is to occur when the association relinquishes its current position on a date appointed by the Minister by order published on the New South Wales legislation website.

Therefore the passage of this bill will result in an increase in the number of trustees from six to nine, and the quorum for a meeting of trustees will increase accordingly from four to six to maintain the two-thirds attendance requirement.

We acknowledge the need to modernise the trust and ensure that its governance structure delivers maximum support for the ongoing maintenance and promotion of the Anzac Memorial. In so doing, we pay respect to our soldiers who gave their lives so that we might hold onto our free and safe Australia, and for that we will always be grateful. The Opposition does not oppose the bill.

The Hon. LYNDA VOLTZ [2.58 p.m.]: The Anzac Memorial Building Trust is a non-partisan body comprising the Premier, the Leader of the Opposition and the Lord Mayor. Originally, in 1923, three returned services organisations joined them: the State branches of the Returned Sailors and Soldiers' Imperial League, the forerunner of the RSL in New South Wales, the Limbless and Maimed Soldiers Association and the TB Sailors and Soldiers' Association—three associations that were dedicated to the welfare of returned soldiers and their families. These associations were instrumental in the establishment of a memorial in the City of Sydney.

The memorial they built was unique in its dual role of remembrance and welfare. They wanted both a memorial to the fallen of the Great War and a service centre for ex-service organisations. It was designed therefore with a function both of commemoration and service. Serving and ex-service personnel could come to the memorial to apply for assistance and to receive medical consultations. There were mothers and children's clinics, and assistance was provided with applications to receive government benefits and pension relief.

This unique pairing remains today with restored offices within the memorial for one of the original trustee organisations, the TB Sailors, Soldiers and Airmen's Association, as it is now known, continuing to share space with the RSL. Sadly, the Limbless and Maimed Soldiers Association no longer exists. It is clear that dwindling membership and capacity will also shortly see the TB association relinquish its involvement in the trust. The bill provides for this through the designation of a transition date, at which time a veterans' representative will be appointed. This appointment will be a person nominated by the RSL New South Wales State President. This accords with the winding-up clause in the TB association constitution and is agreed as a sensible course by its current President, Mr Stan Poulsen.

Today I pay tribute to Stan Poulsen, who has served as the TB association president and on the trust for many years. Stan enlisted in the army in May 1943 and saw service in Borneo and Japan as part of the British occupying forces in that country until he was discharged in June 1949. Stan was to find later that he was suffering from tuberculosis. As with anyone who experiences significant illness, Stan's life was changed. But Stan's commitment to the service of others, already embodied in his enlistment to serve overseas, continued in civilian life. For such service, veterans and their families—indeed the whole community—express their gratitude. Through this bill the RSL will be honoured with the role of guardian to the memorial. This role has been modelled on that which it already plays at the Cenotaph in Martin Place.

It will be a critical responsibility that recognises the RSL's foundation role in the memorial's history and draws on its capacity to appropriately protect the use of the memorial. As guardian the RSL will ensure at a formal level the memorial's commemorative integrity. At an informal level the RSL will also ensure that visitors and school groups honour the purpose for which the memorial was built. The bill protects the continuing involvement of veterans in the future of the memorial and their essential involvement is enhanced. Through this bill the community's commitment never to forget the sacrifices made by serving men and women and their families will be preserved through future generations. I commend the bill to the House.

The Hon. JENNIFER GARDINER [3.02 p.m.]: The Anzac Memorial Building in Hyde Park South is the principal State war memorial to all Australians who served their county in war. On 25 April 1916, which of course was the first anniversary of the landing of the Australians at Anzac Cove, Gallipoli, a fund was opened to raise money to erect a permanent memorial to those from New South Wales who served in World War I. By the end of that year the fund had reached £60,000, and in 1920 the Institute of Architects suggested that a memorial be erected in Hyde Park. In 1929 a competition was held for the design of the memorial and 117 designs were received, from all over the world.

The 1923 Act, which the bill before the House today will amend, sets out in its preamble that the memorial was to "serve as a memorial of the achievement of the Australian Imperial Forces", and trustees were appointed. Building commenced in 1932 during the Great Depression, and in 1934 the Duke of Gloucester

officially opened the memorial. In 1984, following a proposal by the trustees, the Anzac Memorial Building Act 1923 was amended to enable the memorial to be rededicated as a memorial to all Australians who served their country in war. The memorial is administered by a board of trustees appointed under the 1923 Act, as updated.

After more than 70 years of service as a spiritual icon to the memory of the Anzacs and as a purpose-built returned services support and medical aid centre the Anzac Memorial was recently repaired and refurbished to ensure that it maintains its important role and meaning in our community well into the future. That work coincided with the seventy-fifth anniversary of the memorial. An important part of the memorial's mission is to foster learning experiences for students so that they develop an understanding of Australian service and sacrifice in war and in times of peacekeeping. The Anzac Memorial serves, among other things, as an educational setting for students to undertake programs that encourage remembrance of our veterans, their service to Australia, and their legacy of nationhood—what we call the Anzac spirit.

Memorials such as the Australian War Memorial in Canberra and the Vimy Ridge Memorial in northern France, which was built for Canada, emulate that role. This bill will amend the Anzac Memorial Building Act so as to allow for the appointment of certain people to be trustees of the Anzac Memorial Building: the Director General of the Department of Education and Training, to reflect that important educational role; the New South Wales Government Architect and the State Librarian; as well as the appointment of a community representative appointed by the Minister. The community representative will be a person with financial or business qualifications or experience who will assist the trustees in the exercise of their functions. The bill also provides for a veterans' representative to be a trustee in place of the president of the TB Sailors, Soldiers and Airmen's Association in the future. That trustee will be nominated by the RSL, which, as other members have pointed out, has been involved with the creation and the care of the memorial since its inception.

The bill provides that the chief executive officer of the New South Wales Trustee and Guardian be removed, for the Premier to serve as the chairman of the trustees and for the president of the RSL to be the deputy chairperson. The bill will also include as a function of the trustees the education of the community about Australia's military history and heritage, which is desirable, and provides that the RSL shall be the guardian of the building. Under these new arrangements the Premier, the Leader of the Opposition, the Lord Mayor of Sydney and the president of the RSL remain as trustees. The bill sets out how the trust will operate if the Premier is unable to attend a meeting by virtue of a proxy being appointed by the Premier.

Under this legislation the trustees will be empowered to delegate any of their functions to a trustee or an officer of the Department of Premier and Cabinet. The bill also aligns the arrangements whenever there is a complaint in respect of an offence concerning the Anzac Memorial Building so that such a complaint may be laid or made by the custodian, a person nominated by the RSL—arrangements that also exist in relation to the Cenotaph in Martin Place. The bill updates the structure and role of the trustees of the Anzac Memorial. I have had representations relating to this bill from constituents interested in the history and the role of the memorial, in particular, the Families and Friends of the First Australian Imperial Force, an organisation that I joined recently because of my interest in the extraordinary role that Australians played in the service of their nation and the allies on the Western Front in particular.

The crafting of the bill and its passage are being viewed by a number of constituents through the prism of their campaign over a long period to have the word "Fromelles" added to the battles specifically listed in the Western Front niche at the memorial. They are, of course, respectful of the history and the role of this State icon. The poignancy of this particular campaign at Fromelles is heightened by the remarkable story of the location of a mass grave in which Australians and British soldiers killed in the battle of Fromelles were buried and the careful identification of some of the 250 soldiers that has been underway since the confirmation that many Diggers and British soldiers were laid to rest there by the Germans.

As members would be aware, on 19 July next the dedication of a new Commonwealth War Grave—the Fromelles (Pheasant Wood) Military Cemetery, Fromelles, northern France—will occur. During the dedication an unnamed Commonwealth soldier will be buried. He will be the last of the 250 Australian and British soldiers found at the Pheasant Wood site to be laid to rest at the new war grave. As a consequence of the painstaking work that has been undertaken to give these Diggers their special acknowledged place at Fromelles, near the border of France and Belgium, where they fought and fell, many more Australians will come to know that 5,533 Diggers were killed, wounded or captured by the Germans in that brief period on the night of 19 July 1916. More than 1,900 Australians were killed, mostly struck down by machine guns, and this is regarded as Australia's worst single military disaster.

There is, of course, a particular protocol and history to the naming of each battle and the most suitable way to commemorate it. For example, the first Battle of Bullecourt—another dreadful day in the military annals of this country—is listed at the Anzac Memorial in the France and Belgium niche in the Hall of Memory. Because of the protocols and the history of the way in which each battle may or may not be commemorated, in France, for example, the role that Australian and British soldiers played in the Battle of Bullecourt are remembered as part of the Battle of Arras rather than the Battle of Bullecourt.

In Australia at the Anzac War Memorial we recognise that specific battle for very good reason. It is interesting to note that Bullecourt is 62 kilometres from Fromelles. The Battle of the Somme 1916 also is listed at the Anzac memorial. The Battle of Fromelles was regarded as part of the broader Battle of the Somme, a series of battles to the south of the region in which the battles for Bullecourt and Fromelles occurred near what is now the Belgian border.

Given the greater awareness Australians now have, and will have, especially from next month's dedication of the Commonwealth war grave, it is understandable that there is renewed and growing interest in the specific commemoration of the Battle of Fromelles. No doubt, this matter will receive respectful consideration by the trustees of the Anzac memorial, if requested, in the updated configuration of the trust that is set out in this bill. I am sure all members of the House will wish the ongoing and new trustees well in their important work in ensuring the Anzac memorial continues to be a cherished icon.

Reverend the Hon. FRED NILE [3.10 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Anzac Memorial (Building) Amendment Bill 2010. This bill is to reform the composition and management arrangements of the trust for the Anzac Memorial Building. Those of us who have had active involvement in the war memorial in Hyde Park congratulate all those who have had any role in its planning, construction, upkeep and maintenance. It is a wonderful memorial in the heart of our city, and being located in the centre of Hyde Park makes it available to all local citizens to visit and overseas visitors to inspect. As members know, on Anzac Day a service is always held in the forecourt of the war memorial.

After this year's Anzac Day march, in which I took part as normal, I was pleased to attend the special Anzac Day service. This year the guest preacher was the Archbishop of Sydney, Peter Jensen. The second address was given by the Premier of New South Wales, Kristina Keneally. The service was supported by a large number of guests and visitors. The NSW Police Band provided the music for the hymns and other school cadet units provided various aspects of the service, such as the carrying of flags. The Scot's College Scottish band also took part. It was a moving service, as it is each year. I invite all members to attend if they can.

The war memorial was completed in November 1934. Prior to completion a legislative base was established for its operation in the form of the Anzac Memorial Building Act 1923. Apparently, there were many proposals for a large war memorial in Sydney by a number of organisations and committees. However, the Government, with good policy, brought it all together into one trust for one large impressive memorial built in Sydney. A trust initially was appointed comprising the Premier, the Leader of the Opposition and the Lord Mayor, along with three ex-service organisations, including the forerunner of the RSL. The Commonwealth Bank and the Public Trustee served on the trust as keepers of the fund.

The building has a great message when one looks at its various aspects and the wording inside. Of course, this memorial is only one of more than 3,000 throughout New South Wales. Obviously, over the years the memorial reached a point of needing renovations and improvements. I congratulate the State Government on allocating $6 million for a capital upgrade of the war memorial, which was completed recently. This was the first substantial renovation of the building since it was completed in 1934. The building reopened on its seventy-fifth anniversary on 24 November 2009. Obviously, the memorial needs an annual budget and I congratulate the Government again on its decision to increase the memorial's budget support by $750,000 per annum, commencing in 2009-10, to bring the memorial's recurrent budget to a total of $1.25 million. This will ensure that the war memorial is kept in the fine condition it warrants.

The bill will update the membership of the trust and again will appoint the Premier as chairman, to be routinely represented by the Minister Assisting the Premier on Veterans' Affairs as proxy. The bill will also appoint the President of the Returned and Services League of Australia, New South Wales branch, as deputy chair of the trust, and it will continue the practice of the Leader of the Opposition and the Lord Mayor of Sydney serving as members. In addition, the bill will add the Director General of the Department of Education and Training, the State Librarian, the Government Architect and a community member as trust members.

New section 3B states that the community representative should be someone with financial or business skills. I assume that will help the war memorial to operate financially efficiently. I am sure many trust members would have financial and business abilities and knowledge from their various roles. The bill also will assign the Returned Services League of Australia [RSL], New South Wales branch, a position on the trust currently held by the TB Sailors, Soldiers and Airmen's Association of New South Wales as that association no longer is able to keep that role. The bill adds to the trust powers a responsibility to contribute to the education of the community about Australia's military history and heritage, and the authority to delegate its powers. The war memorial requires an efficient trust to carry out those duties, as they are so successfully carried out in Canberra. In recent years the national war memorial has effectively provided information about various projects to visitors about different aspects of wars in which Australia was involved, up to the Vietnam war.

I am pleased to support the bill as it reminds us of the famous phrase, "As we that are left grow old, we will remember them. Lest we forget." In conclusion, I suggest that perhaps consideration could be given to the presence of an honour guard at the memorial on special occasions. This practice is adopted in the United States and many European countries at their main war memorials, many of which I have visited—including those in Poland and Bulgaria. I believe this honour guard would link the memorial with our serving armed forces. I am pleased to support the bill.

The Hon. MARIE FICARRA [3.18 p.m.]: I support the Anzac Memorial (Building) Amendment Bill 2010. My contribution shall be brief, but it represents also the support of the Hon. Charlie Lynn, who is convalescing from his Kokoda Trail eye injury. However, as an accomplished and proud returned serviceman, the Hon. Charlie Lynn, along with all other New South Wales Liberals and Nationals, supports this bill. Peter Loxton was commissioned by former Premier Morris Iemma to independently review the original legislation governing the Anzac memorial. This bill reflects Mr Loxton's recommendations to update the governance and management of such an important shrine, which was built in 1934. Honouring our fallen and all the Australian servicemen and women who have served this great nation will always receive bipartisan support. There have been many sacred issues that unite all Australians, and the maintenance and management of New South Wales' principal war memorial is one of those issues.

The bill is necessary, considering that the memorial has been operating under legislation that dates back to 1923. The trust governing the Anzac War Memorial has performed great things—from the overseeing of an international design competition to the continued maintenance and funding that led to the wonderful structure that exists today in Hyde Park, which is a most prominent icon in this great city of Sydney. I wish to honour the memory of the memorial's collaborative creative efforts by architect Bruce Dellit and sculptor Rayner Hoff. On that note I will quickly cite part of an essay on the memorial by Laila Ellmoos published in 2008:

> The Anzac War Memorial commemorates the Australian and New Zealand Army Corps landing at Gallipoli, Turkey, on 25 April 1915. The enormous casualties suffered at Gallipoli – the first significant battle Australian troops participated in during World War I – came to represent the foundation of the Australian national identity …
>
> [Funds] towards the construction of a memorial in Sydney were raised through public subscription. By 1918, more than £60,000 had been raised. It was then decided that the memorial should commemorate not only Gallipoli, but the other battles that Australian Imperial Forces had engaged in during the war … 117 entries [were] received.
>
> The competition was won by the architect C Bruce Dellit in 1930. Dellit, at [age] 31, was already one of the leading proponents of the Art Deco style in Australia, … [and] had been trained in architecture at Sydney Technical College and Sydney University. His winning entry included bas-relief and brass sculptures on both the interior and exterior of the building, by George Rayner Hoff, who taught sculpture at Sydney Technical College.
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> The foundation stone for the memorial was laid by Sir Philip Game, the Governor of New South Wales, on 19 July 1932, and it was completed just over two years later, using Australian materials and craftsmen. The building was constructed from concrete and clad in grey-pink granite quarried at Bathurst. The interior was modestly adorned with bas-relief sculptures and statues in marble, granite and brass, designed by Rayner Hoff.
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> The building was officially opened by the Duke of Gloucester on 24 November 1934. The wreath he laid is framed and on display in the memorial.
>
> The landscaping of both the northern and southern halves of Hyde Park, with its radial, figtree-lined pathways, was carried out in the 1930s following the completion of the underground city railway. It is likely that the construction of the railway from c1916 to the 1930s – which involved the excavation of much of the park and widening of surrounding streets – was one reason the memorial was not built until 1932 …
>
> The architecture of the Anzac memorial encourages silent contemplation. A circular, wreath-like balustrade in the centre of the Hall of Memory, known as the Well of Contemplation, forces the visitor to look down with bowed head into the Hall of Silence onto Hoff's sculpture in the centre of this room. This brass sculpture, *Sacrifice*, depicts the body of a man lying naked on a shield,

his arms resting on a cross-like sword and his head thrown back. The shield is supported by three women representing wife, mother and sister (or Courage, Endurance and Sacrifice). Hoff's centrepiece in the memorial shows his commitment to commemorating the personal losses and contributions of women in the war, as well as the war dead.

The ANZAC Memorial (Building) Act 1923 was amended in 1984 to rededicate the memorial as a monument to all the conflicts in which Australian soldiers have served.

The trust virtually remained unchanged for many years, so there is a need for modernisation that brings with it professional government resources, thereby ensuring that the memorial's functions, educational as well as ceremonial, may continue into the future. The bill has been developed in conjunction with and with the agreement of the RSL movement, and the non-partisan nature of the trust will continue. It is pleasing that the State Library has made available its collection management expertise and that the Department of Education and Training will facilitate enhanced curriculum connections with the New South Wales Spirit of Anzac Exhibition, which opened last November.

It is fitting to include the Director General of the Department of Education and Training, the New South Wales Government Architect and the State Librarian as trustees, in addition to the Premier, the Leader of the Opposition, the Lord Mayor of Sydney and the President of the RSL, New South Wales branch, who are currently all trustees. Throughout this great nation, cities and towns of all sizes commemorate our armed forces and returned servicemen and women who gave their all so that we may now enjoy our quality of life and security. I believe that there exists more than 3,000 memorials throughout New South Wales alone that provide places of solemn reflection upon the incredible sacrifices made by so many in our armed forces as well as a place of respect and comfort for the families of the fallen.

Honouring our servicemen and women is part of being Australian. Indeed, the increased number of young Australian children who attend Anzac Day services is reflective of the value that our educational system, and indeed our family structures, place on this important part of their history and heritage. It is pleasing that as recently as last month the latest capital upgrade completed for the memorial's seventy-fifth anniversary last November won a top National Trust Heritage Award. The bill will increase the memorial's recurrent budget to a total of $1.25 million. That also is fitting for modern times, which dictate upgrades of security, additional regular maintenance and a curatorial capability for the memorial's memorabilia. The architecture is a tribute to the Depression era workers, many of whom were returned servicemen.

The Anzac Memorial in Hyde Park indeed is a substantial memorial that Sydney, this nation's leading capital, deserves. With the passage of time World War II veterans are ageing, along with those who returned from Korea and Vietnam. I believe the community is taking an increased role in honouring our commitment never to forget the sacrifices made by our Diggers. Indeed, the memorial commemorates all those who served in all wars, including the current conflicts in the Middle East, and all peacekeeping roles. It is pleasing that the Anzac Memorial's continued non-partisan significance in the State's history will remain as a result of this legislation and accompanying funding increase. I thank the Minister on behalf of the Hon. Charlie Lynn. I conclude by citing two verses from the Ode, *For the Fallen* by Laurence Binyon:

They went with songs to the battle, they were young,
Straight of limb, true of eye, steady and aglow.
They were staunch to the end against odds uncounted,
They fell with their faces to the foe.

They shall grow not old, as we that are left grow old;
Age shall not weary them, nor the years condemn.
At the going down of the sun and in the morning
We will remember them.

The Hon. John Ajaka: Lest we forget.

The Hon. MARIE FICARRA: Lest we forget.

Ms LEE RHIANNON [3.27 p.m.]: The Greens support the Anzac Memorial (Building) Amendment Bill 2010. As other speakers have mentioned, the essence of the bill is that it changes the composition of the trust in response to the need to realign the work of the trust in keeping with community expectations and needs. The relentless march of time obviously limits the involvement of veterans in the trust, but in remodelling the trust we must ensure that veterans and their representatives are able to continue to play a key role.

The bill relates to a memorial that encompasses memorabilia and commemorates the sacrifice of those who were killed or who suffered throughout wars. The memorial also pays respect to veterans who were able to

return from wars. There is no doubt that this legislation is very important. Previously similar legislation received bipartisan support when it was introduced. Members would be aware that the Greens will move amendments in response to requests from the First Australian Imperial Force. Ms Jenny Gardiner referred during her speech to conversations she has had with veterans and people who work closely with veterans to retain the memories of their experiences for our benefit.

The important point those representatives made to us is that by a small change being made to the composition of the trust veterans groups other than the RSL will be able to be represented on the trust. From that point of view, I urge members to support the amendments. As we know, the RSL is the guardian of the Anzac Memorial Building, and it is not proposed to change that. The trustees of the Anzac Memorial Building are required to appoint as custodian of the building a person nominated by the RSL, and any information or complaint in respect of an offence concerning this building may be laid or made by the custodian.

As members would be aware, these arrangements are similar to the present arrangements for the Cenotaph. I spell that out because it shows the primary role of the RSL. However, I put it to members that there is an easy way to incorporate the suggestions of the First Australian Imperial Force representatives. I will run through this briefly and then go through it in more detail in Committee. At present there are six trustees; five of the trustees are the Premier as chairperson, the President of the RSL, New South Wales branch, the Leader of the Opposition, a veterans' representative nominated by the RSL and the Lord Mayor of Sydney. The sixth trustee is a community representative appointed by the Minister—that is good—who must have financial or business qualifications or experience.

The Greens acknowledge that that experience is needed on the trust, but the First Australian Imperial Force representatives put it to us—we think the case is well established—that linking "must have financial or business qualifications or experience" with the community representative will make it difficult, and most likely impossible, for a representative of the veterans groups to be nominated because often they lack that experience. The bill provides for a further three trustees: the Government Architect, the Director General of the Department of Education and Training, and the State Librarian. We do not propose to change that. Those positions are all welcome additions to the trustees. In essence, our amendments would provide for a Treasury representative to be a trustee and remove the requirement that the community representative must have financial or business qualifications. I ask members to consider that closely. It is not a substantial change; it is simply opening up the possibility that a representative of another veterans group could become the community representative on the trust. It leaves the RSL in the key position. We would argue that it would strengthen the trust and be in keeping with the important aspect of the trust's work, which is to further the memory of those who died and suffered in the terrible wars that have been fought across this planet for too long.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.32 p.m.], in reply: I thank members for their support for the Anzac Memorial (Building) Amendment Bill 2010, which will ensure that we have a professionally curated memorial facility at the heart of Sydney that will provide essential community education on Australia's military history and heritage into the future. The Hon. Jennifer Gardiner referred to inscribing "Fromelles" onto the memorial. At the Fromelles cemetery dedication on 19 July 2010 New South Wales will be represented by Justice Dennis Cowdroy, OAM, Federal Judge, who was honoured for his contributions to the law and to the RSL. The award recognised Justice Cowdroy's advocacy and involvement in the interment of the Unknown Soldier at the Australian War Memorial.

In conclusion, I thank the Opposition and the Lord Mayor of Sydney for their support for this bill. It is always warming to see that we can put partisanship aside at times like this and come together to support a positive reform for the future of New South Wales. This bill will ensure that the legacy of our brave servicemen and women, and the spirit of mateship emblazoned on the souls of all who lived through times of war in our history, will live on in the hearts and minds of future generations of Australians. 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.

In Committee

Clauses 1 and 2 agreed to.

Ms LEE RHIANNON [3.35 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 3, schedule 1 [2], proposed section 3 (1) (f), line 18. Omit all the words on that line. Insert instead:

(f) a member of the staff of the Treasury,

No. 2 Page 4, schedule 1 [4], proposed section 3B (2), lines 23 and 24. Omit "financial or business".

These amendments are a package to enable a representative of another veterans group to be the community representative on the trust. It is not challenging the RSL; it is simply providing the possibility for a representative of a group like the First Australian Imperial Force to be appointed as a community representative on the trust. The first amendment deals with the section that deals with the make-up of the trust. It is proposed that a staff member of Treasury replace the New South Wales Government Architect. The advice we have received is that the memorial has undergone considerable upgrades, and we want to include a Treasury representative on the trust so that financial experience is available firsthand. The second amendment omits the words "financial or business". Removing those words would not limit the people who could be appointed as a community representative. It would enable a representative of another veterans group to be appointed as a trustee. I hope members can see their way clear to recognise the value that this would bring to the trust and make it much more representative. I commend the amendments to the Committee.

The Hon. JOHN AJAKA [3.38 p.m.]: The Opposition does not support either of the two amendments for a number of reasons. First, they are simply not necessary; they do not add any real value to the objects of the bill. Secondly, the Government Architect would be of greater assistance or value to a board of trustees relating to the maintenance of a memorial than a member of Treasury. When one considers future upgrades to or maintenance of the memorial building, I would rather have the architect involved. As for including a member of Treasury, when one looks at the financial aspects one need only look at the remaining eight members to know that their qualifications are more than sufficient. Thirdly, in relation to amendment No. 2, with respect to Ms Lee Rhiannon, she has simply got it wrong. The bill does not require that the person nominated must have financial or business qualifications full stop. The section clearly reads that the Minister will take into account that the person has "financial or business qualifications or experience". The operative word is "or".

When Ms Lee Rhiannon says, for example, that she would like to see a former soldier, a returned serviceman or woman, or a representative of a veterans group in addition to a representative of the RSL, that person is already eligible and would clearly come within the operative clause of "or experience". The representative does not have to have financial and/or business qualifications. The representative would clearly fall within the "experience" criteria to be nominated and elected to the board of trustees, and that would be sufficient. On that basis, with due respect to Ms Lee Rhiannon, I do not know why the amendments are required.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.40 p.m.]: The RSL remains the strongest and largest ex-service organisation representing veterans, and servicemen and women from all wars, conflicts and peacekeeping operations. In keeping with the ANZAC Memorial Building being the State's principal memorial to those who serve or have served in all wars involving Australians, and in recognition of the RSL's foundation role, it was deemed appropriate that the RSL continue to have leadership in the future of the memorial. The community member with financial or business acumen is designed to replace the former trustee, the New South Wales Public Trustee. Due to the abolition of the role of the Public Trustee and its replacement with the New South Wales Trustee and Guardian, the financial management expertise previously available through this position is no longer available to the trust.

It is envisaged that in future years it will be desirable for the memorial to generate philanthropic support and other funding sources, and the new community member on the trust is expected to have such a capacity. It is also worth noting that the Premier recently announced the formation of a New South Wales Centenary of Anzac Commemoration Committee to examine ways in which the people of New South Wales can play a role in commemorating the centenary of World War I. Included in the announcement was a specific requirement for the committee to undertake wide-ranging consultation with the community, including descendant organisations, such as the First Australian Imperial Force. The removal of the Government Architect will prevent the necessary maintenance of the heritage values of the memorial following the heritage listing of the memorial in April 2010.

The Government Architect was involved in the recent refurbishment of the memorial for its seventy-fifth anniversary and we believe that an ongoing role on the trust will be valuable in ensuring the memorial is appropriately maintained in line with these heritage values. The replacement of the Government

Architect with a member of Treasury is unnecessary in light of the stipulation that the community member appointed have financial or business expertise. It is unnecessary to remove a position and expertise that would be valuable to the trust in its ongoing responsibilities moving forward. The Government will oppose the amendments.

Question—That Greens amendments Nos and 1 and 2 be agreed to—put and resolved in the negative.

Schedule 1 agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Michael Veitch agreed to:

That the report be adopted.

Report adopted.

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.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Ms LEE RHIANNON [3.45 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 257, outside the Order of Precedence regarding the CBD Metro rail, be called on forthwith.

This matter is urgent because it relates to a finding of Sir Laurence Street contained in a report tabled in the House about one month ago. He rejected the Government's claim that disputed documents about the ill-fated CBD Metro project are privileged, and recommended that the majority of them be released in the public interest. The finding is that the public interest trumps the Government's claim for privilege in the majority of cases. Given that Sir Laurence Street clearly detailed the importance of public interest, as more time elapses it shows that this House does not recognise his important finding. I remind the House of one comment of Sir Laurence Street:

> There is plainly great value as well as legitimate public interest in examining and evaluating the considerations and events leading up to the discontinuance of the project.

Today is an opportunity for the documents to be released in accordance with the finding of Sir Laurence Street. I underline the urgency of this motion because of the considerable public interest and the importance that lessons be learned rather than the material be buried. I argue that it is to the advantage of the Government to have this information out in the public arena to help reduce the notion that this Government runs the State in secrecy. What is also very relevant to urgency is that in the past month, as negotiations between my office and the Minister's office progressed, we have found that more and more material was held back. However, the Greens have agreed that some material be withheld. Mr Greg Pearce will amend the motion if we are able to move to the substantive issue. I reassure members that from the advice the Greens have been given issues relating to security and small business will be catered for. I commend the motion to the House, as it is clearly one that is most urgent.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.48 p.m.]: This matter is not urgent at this time. The Government is in the process of dealing with a long list of legislation. The next matter on the program is the Local Government Amendment (General Rate Exemptions) Bill 2010. The Government is working through its legislative program, and on Government Business day its business is more important than the motion of Ms Lee Rhiannon. The Government opposes urgency.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Ms Hale	Mr Pearce
Mr Cohen	Dr Kaye	Ms Rhiannon
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Mason-Cox	*Tellers,*
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 19

Mr Brown	Reverend Nile	Mr Veitch
Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Primrose	Ms Westwood
Ms Griffin	Mr Robertson	
Mr Hatzistergos	Ms Robertson	*Tellers,*
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Moselmane	Mr Smith	Ms Voltz

Pair

Mr Lynn	Mr Roozendaal

The PRESIDENT: Order! The vote being equal, I give my casting vote with the noes and declare the question to be resolved in the negative.

Motion negatived.

LOCAL GOVERNMENT AMENDMENT (GENERAL RATE EXEMPTIONS) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.56 p.m.], on behalf of the Hon. Tony Kelly: 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 Government is pleased to introduce the Local Government Amendment (General Rate Exemptions) Bill 2010.

The bill reflects the Government's ongoing commitment to support the invaluable contribution that public benevolent institutions, public charities and religious bodies make to the communities of New South Wales.

The purpose of the bill is to clarify the exemptions from general rates that apply for public benevolent institutions, public charities and religious bodies.

Broadly speaking, these bodies are exempt from paying general rates on properties that they own and that they use for charitable purposes.

However, the Local Government Act is currently silent on how such a property should be treated if part of the property is commercially let to a non-exempt body.

At the moment, the Act does not allow a council to partially rate the non-exempt part of a parcel of land.

As a result, the Government is aware of situations where charitable bodies are being charged rates on a whole parcel of land because part of the land is commercially let.

I am advised that the Council of the City of Sydney has, for example, adopted a policy of applying a "substantial use test", whereby only if the land is substantially used for the purpose of the benevolent institution or charity, then the whole parcel is deemed to be exempt. If it is not substantially used by the charitable body, the entire property is assessed as being liable for rates.

I am also aware that some councils are utilising section 28A of the Valuation of Land Act to obtain separate valuations in these instances and applying partial ratings.

Unfortunately, however, the Local Government Act does not currently allow this to occur.

This bill therefore provides for the granting of a partial rate exemption where part of a parcel of land is commercially let to a body that is not exempt from rates.

It is important to note that any activities undertaken by a charitable body on the land will be deemed to be part of the charitable body's activities and would be exempt. This includes activities undertaken by the body, such as "op" shops and·cafes.

This bill will ensure a consistent approach between councils and ensure that land owned by a religious body, benevolent institution or charity is afforded a rate exemption to the full extent envisaged under the Local Government Act.

It will also ensure that those councils that are currently applying a partial rate exemption are complying with the legislation.

There will be no net impact on the level of a council's rating income as a result of this bill, although there may be a minor redistribution in the rating burden within a local government area.

There should be no negative implications for benevolent institutions charities or religious bodies as in most cases the terms of the lease agreement will allow the religious body, benevolent institution or charity to pass on the rates liability to the lessee.

However, where the terms of an existing lease agreement between a charitable body and a commercial tenant do not provide for the lessee to pay the rates, the amendment provides transitional arrangements to ensure no benevolent institution, charity or religious body will be worse off under these changes.

In such cases, the entire parcel of land will remain exempt from rates until the land ceases to be the subject of that lease.

The bill provides for the determination of the rateable and non-rateable components of both land and buildings.

In those cases where part of a single parcel of land is subject to a commercial lease, for example where a parcel of land has on it a church and a commercially leased car park, a council may request from the Valuer General separate valuations for each part under section 28A of the Valuation of Land Act, and to then apply rates to the car park component.

In addition, where a parcel of land consists of one building that is partially subject to a commercial lease, the bill provides for the valuation of that building on a stratum basis, thus allowing rates to be charged on those components of the building that are commercially let.

This issue of partial exemptions was initially brought to the Government's attention by the Catholic Archdiocese of Sydney and the Council of the City of Sydney.

Both the Archdiocese and council have requested that the Local Government Act be amended in line with that proposed in this bill. The Local Government and Shires Associations are also in support of these amendments.

I commend the bill to the House.

The Hon. DON HARWIN [3.57 p.m.]: I lead for the Opposition on the Local Government Amendment (General Rate Exemptions) Bill 2010 and state at the outset that the legislation is not opposed. The bill seeks to amend the Local Government Act 1993 in order to provide clarity to the local government rates exemptions applicable to public benevolent institutions, public charities and religious bodies. Under sections 555 and 556 of the Local Government Act, public benevolent institutions, public charities and religious bodies are either wholly or substantially exempt from paying council rates on properties they own and use for charitable purposes. However, the Act is silent on how rates should be applied if a portion of the land is used for non-exempt purposes, such as being let to a non-exempt body for commercial purposes.

Since the Act does not allow a council to assess the non-exempt portion of the land for rates in circumstances in which there is a mix of exempt and non-exempt land usages, councils are left to determine their own approach. Some simply treat the property as entirely exempt. Others, such as the City of Sydney, apply a substantial use test whereby the entire property is deemed exempt if it is substantially used for exempt purposes, or the entire property is deemed rateable if it is substantially used for non-exempt purposes.

Apparently, some councils utilise section 28A of the Valuation of Land Act to obtain separate valuations in order to apply partial ratings to portions used for non-exempt purposes, even though the Act does not currently provide for such an approach.

The bill clarifies the situation by providing that where rateable land is partly used by a public benevolent institution, public charity or religious body for its own purposes and partly for a purpose that would not qualify for an exemption, the relevant council may request a separate valuation under section 28A of the Valuation of Land Act 1916 to enable rates to be charged on that part of the land that is not exempt from rates because of the nature of its use. The bill allows for such partial valuations to be undertaken on a stratum basis when the parcel of land comprises one building that has a partially non-exempt use.

Consequently, the bill will remove uncertainty regarding the general rates applying to public benevolent institutions, public charities and religious bodies and will prevent councils from having to apply rates on a whole parcel of land when a majority of that land is commercially let but part is used for purposes that would normally qualify the property for a rate exemption. Importantly, the bill will validate the actions of councils that are already obtaining section 28A valuations and applying partial ratings. With this bill local councils can adopt a consistent approach to the application of rates to such mixed-use properties, providing certainty to local government authorities and to benevolent institutions, charitable organisations and religious bodies.

There should be no negative implications for benevolent institutions, charities and religious bodies that let property to others for commercial purposes since in most cases the terms of such lease agreements would provide for the rates liability to be passed on to the lessee. Where there is an existing lease agreement that prohibits the lessee from being subjected to such rates liability, the bill provides transitional arrangements to ensure that the property owner will not be worse off. These arrangements will stand until the expiration of the existing lease.

The amendments proposed in the bill have the support of the Local Government and Shires Associations. They are designed to correct an existing anomaly and provide clarity. They appear fair and sensible. As a result the Opposition does not oppose the bill. We will not be moving any amendments. The Government's case has been made out in full. I anticipate there will be many public institutions, religious bodies and charities that will take advantage of this and councils, who have been subjected to years of cost shifting by this Government, will finally be able to make an appropriate arrangement with commercial tenants using the property holdings of benevolent institutions and religious orders to no disadvantage to those churches and charities, but nevertheless to the benefit of residents and ratepayers in council areas all around Sydney. I commend the bill to the House.

Pursuant to sessional orders business interrupted at 4.00 p.m. for questions.

QUESTIONS WITHOUT NOTICE

CENTRAL COAST PROJECT FUNDING

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Transport, and Minister for the Central Coast. Given that the F3 to M2 link, Warnervale railway station, Gosford and Wyong hospitals and the Kincumber fire station secured no new funding in the 2011 budget, will he now give an undertaking to the House to seek supplementary funding on behalf of the people of the Central Coast to get these long overdue projects underway? Could the Minister also indicate to the House and therefore to the Central Coast what is his top Central Coast priority in taking on this portfolio?

The Hon. JOHN ROBERTSON: It is a privilege and a pleasure to be given the opportunity to represent the Central Coast, an area that has a fantastic lifestyle and one that has done extraordinarily well out of today's budget. The 2010-11 budget will benefit the Central Coast through strong investment in roads, energy infrastructure, schools, jobs and health services. The New South Wales Government is maintaining its commitment to the Central Coast by investing in key services. We have increased spending on local roads, health and education. We are also continuing to undertake important infrastructure programs across the Central Coast supporting jobs and the region's economy.

This Government understands the significance of the Central Coast to the State as a whole as well as the specific issues that affect this unique region. The 2010-11 budget reinforces this commitment to the Central

Coast. The budget will deliver improved public transport, including the development of the Central Coast transport plan, which is currently underway, an upgrade of Tuggerah train station, $6 million towards a new Gosford commuter car park, and the roll-out this year of 74 extra outer suburban carriages, or OSCars, which will mean additional services for Central Coast train commuters. There will be extra buses as part of the first 200 purchased under the Metropolitan Transport Plan.

Investment in Central Coast roads includes $35 million to continue construction of the four-lane widening of the Central Coast Highway between Carlton Road and Matcham Road at Erina Heights; $12 million to complete construction of the Central Coast Highway and Woy Woy Road intersection upgrade at Kariong; $12 million to complete construction of the widening of Avoca Drive to four lanes between Sun Valley Road and Bayside Drive at Green Point; $12 million to start construction of the four-lane widening of the Central Coast Highway between Matcham Road, Erina Heights, and Ocean View Drive, Wamberal; $6 million to continue planning and construction of improvements to Terrigal Drive; and $8 million for planning for two separate upgrades at the Pacific Highway near Lisarow.

There is record health spending—$442.7 million on health services in the Central Coast region, a boost of $27.6 million on the figures for last year. There will be 10 additional clinical nurse educators across the North Sydney Central Coast—

The Hon. Michael Gallacher: You were asked a very specific question about supplementary funding for the additional programs.

The Hon. JOHN ROBERTSON: And I thank the member very much for asking me the question so I can give the details of the whole budget for the Central Coast.

[*Interruption*]

The Leader of the Opposition can ask me a supplementary question. There are 10 additional clinical nurse educators across the North Sydney Central Coast Area Health Service. Funding for schools and TAFE is boosted. There is $451.5 million in funding for public schools and $52 million for TAFE colleges on the Central Coast; $13.6 million for further work upgrading the Central Coast Centre for Industry Training Excellence at local high schools and Gosford TAFE; and an upgrade of the existing library at Lisarow High School. There is also $2.3 million for sewerage and stormwater upgrades at 15 local schools across the Central Coast.

There will be jobs and a boost to the region's economy from $350 million invested in electricity infrastructure upgrades on the Central Coast. Investment in emergency services includes five new fire engines for fire stations at Wyong, Umina, Berkeley Vale, Kariong and Hamlyn Terrace. Funding is provided for two extra vehicles for Gosford State Emergency Service and there is $9.4 million to complete the construction of the new Wyong police station. The list goes on. If the Leader of the Opposition asks me a supplementary question I will continue to detail how good the budget is for people on the Central Coast.

JUSTICE AND LEGAL SERVICES

The Hon. CHRISTINE ROBERTSON: I address my question to the Attorney General. What is the latest information regarding the New South Wales Government's commitment to investment in justice and legal services?

The Hon. JOHN HATZISTERGOS: In today's budget the Keneally Government announced it would invest a record $828 million in justice and legal services across the State and a further $57.1 million towards capital works upgrades for the State's courts. Moreover the Government will invest record funding in prosecution and access to justice services, including an additional $5.3 million over two years for solicitors and other staff of the Office of the Director of Public Prosecutions, bringing their total budget to more than $102 million; and $154 million for the Legal Aid Commission, an additional $8.4 million over the previous year, representing a total budget for the Department of Justice and Attorney General, including the Office of the Director of Public Prosecutions, Legal Aid NSW and the Judicial Commission, of a record $1.1 billion.

As part of the capital expenditure program outlined in the budget today the Government will deliver the State's largest court complex outside Sydney. Last week I travelled to Newcastle to announce that the Government is allocating $4.7 million in 2010-11 for a new state-of-the-art courthouse in Newcastle. Planning

for the justice precinct in Newcastle will be completed in 2011-12, with construction to begin the following year. The $94 million complex is expected to open in 2014-15. I note that Judge Ralph Coolahan made this comment in the *Newcastle Herald* on 7 June 2010:

> It's a great commitment from the government in times when money is short and there are so many competing interests.

In the same article, the President of the Newcastle Bar Association, Peter Harper, also welcomed the announcement, acknowledging the "significant funding commitment". Further to the budget's allocation to capital works, the Government will also build a $15 million justice complex for Armadale, to be completed by early 2013; invest $29 million to fund the refurbishment of the Supreme Court building in Phillip Street; and invest $26.5 million over five years in a major revamp of the Downing Centre courts and the civil courts and tribunals in the Maddison Tower, including $5 million earmarked in 2010-11 for design work on the new large secure trial court in the Downing Centre and new premises for the Administrative Decisions Tribunal and the Dust Diseases Tribunal.

Investment in court rehabilitation and diversionary services will increase by 13 per cent as part of the Government's commitment to further drive down the rate of crime. The investment will rise from $26.7 million in this year's budget, an increase of $3.1 million. These programs, such as the Drug Court and the Magistrate's Early Referral into Treatment programs, successfully tackle the causes of crime. The record 2010-11 budget will also fund a number of other projects, including $4.1 million for LifeLink, a new operating system for the Registry of Births, Deaths and Marriages, that better stores and secures data and that will help to prevent identity fraud; $2.85 million for the renovation of the Sutherland courthouse; $2.1 million for the upgrade of the cell complex at the Central Local Court; $2 million for stage one of the $5 million renovation of Taree courthouse; $3.7 million for graffiti reduction strategies, including the annual Graffiti Action Day and environmental design initiatives to deter graffiti vandals at hotspots; and an additional $2.9 million for the Keep Them Safe initiatives, including the appointment of five specialist children's registrars.

The 2010-11 budget is good news for the people of New South Wales by continuing to deliver vital public services, building on our budgetary achievements over the past financial year, and ensuring that access to justice remains a government priority into the future.

FORBES DIALYSIS SERVICES

The Hon. DUNCAN GAY: My question without notice, which relates to the Forbes dialysis unit, is directed to the Minister representing the Minister for Health. Does the Minister recall my question almost three months ago, to which I am yet to receive a response, when I said that I had met with the Acting General Manager of Rural Clinical Services in February who informed me that the expansion of the Forbes dialysis service was likely to begin within the next three months? Given that in a letter dated 29 April Danny O'Connor stated that the two additional chairs would be operational by October this year, what is the Minister's response to local advice that that will certainly not be the case? As there has been so much confusion and lack of detail in relation to the upgrade, will the Minister advise the House exactly when the people of Forbes will be dialysed in their own community and will no longer have to travel over 700 kilometres each week for treatment? The question is for the Minister, representing the Minister for Health. There are so many changes, one never knows who that will be.

The PRESIDENT: Order!

The Hon. JOHN HATZISTERGOS: There was no change in my representation and there was no change to the portfolio of the Minister for Health. I will refer the details of the member's question to the Minister for Health and obtain an answer and provide it to the member in due course.

PRISONER HEALTH

Reverend the Hon. Dr GORDON MOYES: I direct my question to the Minister representing the Minister for Health. Is the Minister aware of recent investigations by the Australian Institute of Health and Welfare, which reports that prisoners in Australia have very poor health status in comparison to the general community? Is the Minister aware that 25 per cent of all prisoners have chronic conditions such as asthma, cardiovascular disease or diabetes; that 80 per cent are constant cigarette smokers; that 52 per cent consume alcohol at risky levels; and that 71 per cent admit to having used illicit drugs during the past year of incarceration? Is the Minister further aware that 37 per cent of prison entrants reported having received a mental

health diagnosis at some time; 43 per cent had received a head injury resulting in a loss of consciousness; and 31 per cent had been referred to prison mental services? Can the Minister inform the House what steps will be taken to improve health services for prisoners? [*Time expired*.]

The Hon. JOHN HATZISTERGOS: I thank the member for his question and for the sensitivity of his interest in this matter. It is easy to discard prisoners and their health and, for a number of reasons, not to give these issues appropriate attention. However, it is important to acknowledge that many of those who come into contact with the justice system and who ultimately are incarcerated have significant health issues—not only mental health issues and chronic diseases but also a range of other risky behaviours that can manifest themselves in a number of adverse health issues. The Government is investing $129.9 million to deliver better services for Justice Health in 2009-10, which is an increase of $7.5 million, or 6.1 per cent on figures for the previous year.

This Government has invested significant resources not only to provide care for the disadvantaged population but also to minimise the public health risks in prison and in the general community. Inmates generally have poor health, which is characterised by general neglect, substance abuse and mental illness. As many members would be aware, a significant proportion of the persons in the prison system are of Aboriginal and Torres Strait islander descent. Justice Health participated in the research that was released by the Australian Institute of Health and Welfare. Justice Health has also published three inmate health surveys—in 1996, in 2001, and most recently in 2009.

The findings from those surveys have greatly assisted in directing efforts to areas identified as high prevalence, or gaps in the system. For instance, inside prison, Justice Health has enhanced its reception triage process and has developed a clinical pathway for mentally ill offenders by establishing screening units jointly with Corrective Services. Justice Health has improved its care for inmates with drug and alcohol addiction, including expanded access to methadone and a post-release support scheme. Justice Health has also expanded its early detection program for infectious diseases such as hepatitis C. These and other initiatives will ensure immediate health care for people who are newly arriving into custody.

It is important to ensure that these resources are provided not only in the interests of inmates but also in the interests of the general community. In my time as Minister for Health, in the Corrective Services portfolio and also in this portfolio there have been many instances when persons who have come into conflict with the law have raised issues about inadequate health care being provided in the prison system as the reason that they should not be subject to the penalties that the criminal law would impose upon them. The answer is to ensure that we provide appropriate health resources for those people so that that argument does not prevent justice from being done.

COMMUTER BUS SERVICES

The Hon. PENNY SHARPE: My question is addressed to the Minister for Transport. Can the Minister inform the House about improvements to bus services for commuters in today's budget?

The Hon. JOHN ROBERTSON: I acknowledge the member's ongoing interest in bus services for commuters. The Government will provide a record $1.1 billion towards bus services in 2010-11—an increase of more than $143.9 million on the figures for last year. This boost will support the extra buses that we are putting on roads; hiring and training extra drivers for those buses; and recruiting mechanics to keep the buses on the roads. The budget includes $145 million to purchase 200 new growth buses, the first of the 1,000 new buses to be delivered under the Metropolitan Transport Plan. In May the Premier announced that we were talking to the private sector to deliver the first 100 of these buses as soon as it could in 2010-11. I am happy to inform members that the first orders have been placed.

This budget provides funding for yet another 100 buses—a total of 200 new growth buses this year that will provide additional capacity on the transport network and create jobs for drivers, maintenance personnel and support staff as well as jobs in the manufacturing sector. We will deliver these buses in the same way that we delivered 300 growth buses in just one year. These 300 growth buses are being delivered well ahead of schedule. More than 270 buses have already been delivered and are providing more trips during peak times on busy routes. All 300 buses are expected to be in service by the end of this month. The new buses will boost services on high demand routes and will also be used to provide new connections on strategic bus corridors.

These key routes connect major transport hubs, major community facilities such as health and education precincts, retail and other service centres, and employment areas. While we will always need to

increase capacity on routes coming into the Sydney central business district, we are also expanding cross-city links to better connect Sydney's city of cities. These routes will be supported, where appropriate, by measures such as priority at traffic lights and dedicated bus lanes to keep them moving through the traffic. This new fleet is delivering. People are getting out of their cars and onto public transport.

Last financial year patronage on Sydney buses alone went from 191.3 million passenger journeys to 192.8 million journeys. By delivering modern air-conditioned buses and running them more frequently it will make it even more attractive for people to jump onto a bus. Each bus takes up to 50 cars off the road, which significantly eases congestion and pollution. New buses, combined with initiatives such as MyZone fare reforms, are making it easier than ever before for commuters to use public transport. All in all, the 2010-11 budget includes funding for more than 500 new and replacement buses.

On top of the 200 new growth buses I have already mentioned, this budget includes $77.6 million to be spent on the purchase of 100 bendy buses for the State Transit Authority fleet; $49.3 million to be spent replacing 87 older State Transit Authority buses; and $51.6 million to be spent on the purchase of 119 replacement buses for private operators in Sydney metropolitan and outer metropolitan areas.

These new buses are supporting local jobs like those at the new $20 million Custom Coaches bus building facility at Villawood. This plant alone employs some 400 workers, including around 50 apprentices, with more than a dozen additional apprentices coming on board as part of the winter intake. At this factory, a brand new bus drives out the front gates just about every day. This budget is delivering for New South Wales bus commuters: 200 new growth buses, 100 new bendy buses and 206 buses to replace ageing vehicles in the existing fleet. More than $1.1 billion— [*Time expired.*]

The Hon. PENNY SHARPE: I ask the Minister to give further information about what is happening with the buses.

The Hon. Don Harwin: Point of order: Valid supplementary questions are those that ask for an elucidation of an aspect of the Minister's answer.

The Hon. Penny Sharpe: To the point of order: That is exactly what I asked. I asked for more information about what is happening with the buses in the budget, which I believe is the same as asking for elucidation.

The PRESIDENT: Order! I uphold the point of order.

DISTANCE EDUCATION FUNDING

Reverend the Hon. FRED NILE: I ask the Hon. John Hatzistergos, representing the Minister for Education and Training, a question without notice with regard to an issue I have been raising with the Government in private correspondence since September last year. Does the New South Wales Government acknowledge that it has a duty of care to provide funding for the education of all compulsory school-age children in New South Wales? Will the Government take immediate action to ensure all non-government school distance education students receive funding for their education? Why does the Government refuse to fund its distance education program in the same way as its other State counterparts?

The Hon. JOHN HATZISTERGOS: I will take the question on notice and obtain an answer from the Minister for Education and Training.

ERSKINE PARK LINK ROAD

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Minister for Planning, and Minister for Infrastructure. Is the Minister aware that when addressing a Penrith Valley Chamber of Commerce lunch on 2 May 2009 the Premier promised that the Erskine Park link road would be built at a cost of $80 million and that work would commence in October 2010? Does the Minister remember telling a Penrith Valley Chamber of Commerce function on 3 March 2010 that the Erskine Park link road is on track? Why should the people of Penrith believe that the Government will ever deliver the desperately needed Erskine Park link road when there is no completion date and no estimated total cost in its 2010-11 budget papers?

The Hon. TONY KELLY: The Erskine Park link road network is a vital link that will connect the Western Sydney Employment Area with the M7, M4 and the Great Western Highway. The Erskine Park link

road network will provide a number of benefits to western Sydney. It will provide a direct link between the Western Sydney Employment Area and Sydney's motorway network; reinforce the Western Sydney Employment Area as a significant employment hub; reduce industrial traffic from Erskine Park Road, which is a key road for the local community; and reduce transport costs for industry located in the Western Sydney Employment Area.

The first component to be delivered is the $80 million east-west link between Lenore Lane, Erskine Park, and Old Wallgrove Road, Eastern Creek. The Erskine Park link road will be delivered by the New South Wales Government through a coordinated approach. The Department of Planning will oversee project funding and land acquisition for the new road. The Roads and Traffic Authority will manage the review of environmental factors, detailed design and construction of the new road. The review commenced in October 2009 and I am advised that it will be displayed later this year. Survey and preliminary site investigations also are underway, and detailed design commenced in February 2010. I am advised also that construction of the east-west section of the Erskine Park link road will commence following further environmental approvals, which is expected by the end of 2010.

The Hon. MATTHEW MASON-COX: I ask a supplementary question. Could the Minister please elucidate his answer, particularly as to why details about completion date and estimated total costs are not in the 2010-11 budget papers, given his answer?

The Hon. Greg Donnelly: Point of order: That is not a question seeking elucidation. It is a brand new question. Therefore, it is out of order.

The Hon. MATTHEW MASON-COX: To the point of order: It is not a brand new question. I can provide a transcript of the question I asked. Clearly, it is within the contemplation of the question asked initially. I asked for further elucidation.

The PRESIDENT: Order! I uphold the point of order. It is immaterial that the supplementary question, even though it contains the term "elucidation", is the same as part of the original question. The member can ask only for elucidation of the answer given by the Minister.

PLANNING REFORMS

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Planning. Could the Minister please advise the House on how the Government's new planning reforms will impact on the New South Wales economy?

The Hon. TONY KELLY: The Government's Comprehensive Land and Housing Supply Strategy is a big win for the New South Wales economy and an important initiative to support families and homebuyers. The construction industry plays a central role in the State's economy; it is a significant indicator of our economic health and wellbeing. The housing sector directly contributes about 4 per cent of the State's economic output each year—that is, $4 out of every $100. The Housing Industry Association estimates that the housing and renovations industry in New South Wales contributes approximately $43.9 billion to the broader economy, which then generates further demand in other sectors. For every $1 million increase in construction output, there is an increase in output elsewhere in the economy of about $2.9 million.

Apart from the great importance we place on home ownership, these numbers highlight why it is important to maintain a favourable climate for housing development in New South Wales. That is why in December 2008 the Government introduced a package of measures to improve housing affordability and boost construction. We slashed our own State infrastructure charge by up to $27,000 to just $11,000 per lot in Sydney's growth centres and we introduced a $3,000 grant for families building their first home or buying a newly constructed home. We continued also to rezone land to provide enough affordable lots to meet the pent-up demand for new homes as the economy bounced back.

These measures helped boost confidence in the sector. Industry forecasts predict at least 6,000 new homes in greenfield areas per year by 2012-13. However, our work continues. The Comprehensive Land and Housing Supply Strategy announced last week includes some of the most sweeping changes ever made to the development sector in New South Wales. We have capped the levies charged by councils on new housing lots at $20,000—that is, section 94 charges.

The Hon. Greg Pearce: You've already done that.

The Hon. TONY KELLY: No. I acknowledge the interjection. A couple of years ago a threshold of $20,000 was announced and councils were able to apply for exemptions to go above that. This change imposes a solid cap on council levy charges. We have provided councils with additional resources to approve more homes each year; tasked the Independent Pricing and Regulatory Tribunal—the independent umpire—with improving the way council rates and levies are set to provide more certainty, transparency and fairness to councils, landowners, developers and the community; and reassessed the greenfield land release program and aligned it more effectively with infrastructure.

The industry recognises the importance of these significant reforms. The President of the Local Government and Shires Associations, Bruce Miller, commented in the *Sydney Morning Herald*, "Rate pegging … should be for council to set … [but] this is a step in the right direction." To explain: we have changed the criteria for setting council rates to reflect their cost indices, a process that councils had requested some years ago. The Urban Development Institute of Australia said the measures will reduce development costs and speed up the approvals process. A spokesman said:

> There will be projects now that will proceed, that would not have been viable under the old levy framework.
>
> The Government has demonstrated emphatically that there is the political will to improve housing delivery in New South Wales.

The President of the Western Sydney Regional Organisation of Councils, Alison McLaren, stated in a media release on 4 June that the move would provide greater certainty for all parties. The Urban Task Force stated:

> … [The initiatives will] generate strong interest by developers in re-starting major home construction projects in New South Wales, boosting housing affordability and choice.

The Property Council of Australia stated in relation to the reforms:

> … [The reforms] will help drive housing supply, introduce greater cost certainty for home building companies and encourage financial discipline among councils.

In conclusion, I refer to what was said by Glenn Byres, the acting New South Wales Director of the Property Council. [*Time expired.*]

The Hon. KAYEE GRIFFIN: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. TONY KELLY: Mr Byres stated:

> Anything that helps reduce the upfront cost of bringing new homes to market and reducing the price for homebuyers is a good step.

FORMER MINISTER FOR STATE AND REGIONAL DEVELOPMENT, MINISTER FOR MINERAL AND FOREST RESOURCES, MINISTER FOR MAJOR EVENTS, AND MINISTER FOR THE CENTRAL COAST

Ms LEE RHIANNON: I direct my question to the Attorney General, representing the Premier. Will the Minister request that the inquiry undertaken by the Independent Commission Against Corruption into Mr Ian Macdonald's travel arrangements be expanded to investigate the former Minister's trips to China with Tony Hewson, his former chief of staff, former Young abattoir manager and a former Mayor of Young, and with Grant Edmonds, the former Young abattoir's owner, with respect to who paid for these trips and their associated expenses, what meetings were held with representatives of the Chinese Government and China Shenhua, the nature of any discussions concerning China Shenua's plans to explore for coal on the Liverpool Plains, and what was offered in return for the $300 million coal exploration fee that Mr Macdonald negotiated with China Shenhua?

The Hon. JOHN HATZISTERGOS: I advise that on Wednesday a staff member of the Premier's office received an unsolicited email. That office referred the email to the Department of Premier and Cabinet, which in turn forwarded it onto the Independent Commission Against Corruption. The email contained allegations concerning the conduct of a third party, not the former Minister. The matter is now in the hands of the Independent Commission Against Corruption. If the honourable member has further information that may assist the Independent Commission Against Corruption, I request that she provide that information to the commission.

CROSS-BORDER TRANSPORT INTEGRATION

CASINO TO MURWILLUMBAH RAIL LINE

The Hon. JENNIFER GARDINER: I direct my question to the Minister for Transport. Is he aware that a cross-border transport discussion paper was released last year? Will he advise of the status of discussions between the New South Wales Government and the Queensland Department of Transport in relation to better integration of cross-border transport? Will he advise whether any government-to-government discussions have taken place in relation to linking rail services in north-east New South Wales with rail services in south-east Queensland? If so, what is the outcome of those discussions? As the relatively new Minister for Transport, will he undertake to review the closing down of rail services on the Casino to Murwillumbah line so that residents of the growing Northern Rivers region will have access to rail services, as they did until early this century?

The Hon. JOHN ROBERTSON: I thank the honourable member for her questions. In the light of the detail of her questions, I will take them on notice and undertake to provide her with an appropriate answer.

STRONGER TOGETHER PROGRAM

The Hon. HELEN WESTWOOD: I direct my question to the Minister for Ageing, and Minister for Disability Services. Will he provide an update on the Stronger Together Program?

The Hon. PETER PRIMROSE: I thank the honourable member for her question. There are almost 1.2 million people in New South Wales with a disability. Over one-quarter of these people are serviced by organisations funded under Stronger Together, which is the Keneally Government's 10-year plan to expand and improve services and support people with a disability. Of course, these services are available not only to our clients but also to the quarter of a million carers that support people with a disability and enable them to live in the community.

Under Stronger Together stage one, the Government committed $1.3 billion over the first five years of the plan to 2010-11. Latest data shows that in the first three years of Stronger Together we created more than 20,000 additional disability service places in the areas of greatest need. That included more than 2,200 additional therapy places for children and adults with a disability, and more than 3,900 families benefited from new respite places across New South Wales. I am confident that analysis of the program's achievements for its fourth year will show that Stronger Together continued its impressive record. However, such achievement requires strong ongoing financial support to the Ageing and Disability Services sectors.

I am pleased to announce that in 2010-11 the fifth year of Stronger Together stage one has been fully funded, as the budget shows. The Keneally Government has allocated a total operating budget of $2.468 billion to ageing, disability and home care for the 2010-11 financial year. That represents an increase of 9.1 per cent, or $205.6 million, on the current year's budget. The additional funding for the upcoming financial year will be used to further improve the lives of people who have a disability, their families and their carers, just as previous allocations have done. This reform, this funding, is the type of work that is at the core of Labor's tradition—supporting the most vulnerable people in our community.

This Government will make sure that the second five-year phase of Stronger Together builds on the strong work that has been done to date. That is why we have commenced the consultation process for Stronger Together stage two. Last week the Premier and I held an initial briefing and consultation session at Parliament House with families, peak bodies and service providers. Following that, we arranged consultation sessions during June and July in 13 other city and regional locations, such as Chatswood, Parramatta, Drummoyne, Sutherland, Narellan, Newcastle, Bathurst, Dubbo, Wagga Wagga, Wollongong, Queanbeyan, Lismore and Tamworth. I will attend all the sessions to hear directly from organisations representing the millions of people affected by our service system as well as the hundreds of committed service providers. We want to know what worked, what did not work, and everything in between.

The public, in particular all interested parties, will be invited to submit papers and to comment through a public website and email. Stronger Together is making a real difference to the lives of many of the most vulnerable people in our community. Our aim is to listen to as many people as possible through consultations that will help us to plan the future and further improve the way in which we support people with a disability, their families and their carers. Through Stronger Together, the Keneally Government will continue to work hard to deliver much-needed services to some of the most vulnerable people in New South Wales.

TAFE FUNDING

Dr JOHN KAYE: My question is directed to the Minister representing the Minister for Education and Training. Is the Minister aware that TAFE New South Wales has lost language, literacy and numeracy program funding from the Commonwealth Government worth $50 million over the next three years? How many part-time casual teachers in this program will no longer have a job with TAFE? What steps has the New South Wales Government taken to ensure that TAFE New South Wales does not lose further program funding in the competitive training agenda that is being developed by the Deputy Prime Minister and Federal Minister for Education, Julia Gillard?

The Hon. JOHN HATZISTERGOS: I will take the questions on notice, obtain an answer and advise the House in due course.

PENRITH AND PARRAMATTA DISTRICT COURTS

COURT TRANSCRIPTION SERVICE RELOCATION

The Hon. JOHN AJAKA: I direct my question to the Attorney General. Why has the Government relocated the Penrith District Court to Parramatta? How much money was spent upgrading Penrith's court facilities? When were the upgrades completed? Why did the Government upgrade the Penrith court facilities immediately before relocating the Penrith District Court to Parramatta? When will the court transcription service be relocated from Penrith to Parramatta? Have the transcribers been consulted about the proposed move? If not, why not? If so, what was their reaction?

The Hon. JOHN HATZISTERGOS: The issue of administration of justice in western Sydney is topical. The member's interest seems to have been renewed, even though he obtained comprehensive answers to this stream of questions at last year's estimates hearings. He well knows the answer to most of the aspects of the questions he has asked. For a start, the location at which courts sit in New South Wales is determined by the heads of jurisdictions, and they are the Chief Justice, the Chief Judge of the District Court and the Chief Magistrate of the Local Court.

Penrith is a crucial part of the State's network of courts. The Government has spent approximately $3.3 million on improving that court, including the installation of closed-circuit television equipment to spare vulnerable witnesses the anguish of having to come face-to-face with their alleged attackers. The District Court will continue to sit at Penrith. From July 2009, at the instigation of the Chief Judge of the District Court, it commenced hearing matters from the local area commands based at Penrith, Hawkesbury and the Blue Mountains.

As has already been announced, with the decision to open the $330 million Parramatta justice precinct, a number of cases from local area commands that are approximately closer to Parramatta will be heard at Parramatta. In addition, long trials that previously would have been transferred from western Sydney—that included Penrith and Parramatta—into the city will now be able to be heard at Parramatta. So in terms of access to justice, not only will the people of Penrith have the District Court sitting there, with those cases that are more closely related to that region being heard there—meaning that victims are not disadvantaged—but also other persons who are approximately closer to Parramatta will be able to have their cases heard in the state-of-the-art complex in the Parramatta justice precinct.

Again, long cases that previously were transferred into the city will now be able to be held in western Sydney. I do not know what aspect of that the Opposition finds difficult. Last week we had the spectacle of the shadow Attorney General saying that Supreme Court judges were not prepared to sit in Parramatta. He said that Supreme Court judges did not want to sit at Parramatta, although when the Supreme Court last sat at Parramatta—that was in relation to the recent terrorist trial that resulted from Operation Pendennis—he complained about the sitting in Parramatta because it was inconvenient for lawyers.

On the one hand he complained that the Supreme Court did not sit in Parramatta; on the other hand, when the Supreme Court decided to sit at Parramatta he said it was inconvenient for the lawyers. He made a number of complaints about the Supreme Court sitting in Parramatta, including the inconvenience to lawyers, and suggested that the trial might have to be transferred to the Downing Centre because the court complex at Parramatta was not good enough. The lawyers made an application to have the Supreme Court sitting transferred from Parramatta and into the city. Guess what? The application was unsuccessful. The Supreme Court, which

the shadow Attorney General claims did not want to sit in Parramatta, heard an application as to whether it should sit in Parramatta or transfer to the Downing Centre and it decided to sit in Parramatta. In 2008 the shadow Attorney General, Greg Smith, said:

> I don't know why they insisted on having this trial out at Parramatta. There are courtrooms in the city.

That is what he said two years ago, and now he claims that the judges are not going out there. [*Time expired.*]

MULTICULTURALISM

The Hon. SHAOQUETT MOSELMANE: My question without notice is addressed to the Minister for Citizenship. What is the latest information regarding the New South Wales Government's commitment to multicultural communities in New South Wales?

The Hon. JOHN HATZISTERGOS: The Government is proud of the fact that we have people from some 200 birthplaces making this State their home, with over 20 per cent of the population speaking a language other than English. The Keneally Government believes that these skills, traditions and different backgrounds make our State one of the most interesting, vibrant places in the world. That is why, in 2000, the Government advanced multicultural policy into the twenty-first century. We introduced our legislation into the Parliament, and it is currently the subject of discussion. As part of today's budget the Government has reaffirmed these principles by having a total budget of $18.6 million—up from $18.1 million in the previous budget. The Community Relations Commission [CRC] will use its funding to continue promoting social justice and the principles of multiculturalism through a number of services, including administration of the Community Development Grants Program.

These funds are allocated under the 2010 budget; it is forecast that 110 community organisations benefit from our programs. That demonstrates the Government's State Plan commitment to cultivating strong inclusive communities, where every citizen feels valued and has the opportunity to realise his or her potential. The budget will also enable the commission to continue to perform its function of providing support to culturally and linguistically diverse communities, as well as advising the Government in areas relating to social diversity and harmony. The provision of language services continues to be a priority. We now have services for some 86 different languages. It has been forecast that that number will rise to 90 in the next financial year. The Community Relations Commission operates a professional interpreting and translation service of international quality. It is part of ensuring that access to government and community services is equitable, such that every citizen has the opportunity to participate in the life of the State.

The commission facilitates the work of key government agencies, such as police, housing, education, the Roads and Traffic Authority and the courts, ensuring that clients fully understand their rights and obligations. For example, someone who has arrived from Sudan speaking no English at all, or an aged Italian grandmother who has forgotten her English through old age, can be efficiently assisted through the agency of the commission's interpreter services. However, it is not just about interpreting discussions; it is about the translation of vital documents such as wedding certificates, drivers licences, educational qualifications or trade level certificates. The interpreting service is free to any person who requests it when dealing with a government agency, the police or the courts.

The commission also provides interpreters to clients of community legal centres for matters relating to New South Wales Government activities. In 2010-11 the commission is forecast to undertake 49,000 interpreting and translating assignments. The Government's investment in multiculturalism through the work of the Community Relations Commission enriches our diverse society by helping migrants to flourish as full citizens and society to reap the benefits of cultural diversity through the skills and richness of its varied members, by promoting unity amidst diversity and by celebrating differences in language, tradition, cuisine and religion that constitute our State's multicultural mosaic.

AGEING, DISABILITY AND HOME CARE RESTRUCTURE

Mr IAN COHEN: My question is addressed to the Minister for Ageing, Minister for Disability Services, Minister for Volunteering, and Minister for Youth. Will the Minister advise how many level 3 public service staff working for Ageing, Disability and Home Care [ADHC] will be promoted to higher management positions in the current department restructure yet will be held on probation as they do not have the required skill set? Is it correct that level 3 Ageing, Disability and Home Care staff promoted to such senior roles are being held on probation when long-term network managers have the existing skill set to undertake the role? Is

Ageing, Disability and Home Care adhering to merit-based recruitment through the restructuring process? What consultation has Ageing, Disability and Home Care undertaken with clients or client representatives in relation to the restructure?

The Hon. PETER PRIMROSE: I thank the member for his questions—and I stress "questions". Ageing, Disability and Home Care employs more than 13,000 full-time and part-time staff. Approximately 10,400 staff provide direct services to older people and people with a disability and their carers. The remaining staff work in service support roles: policy and strategic development, regional support and central office administration. The workforce comprises about 10,650 equivalent full-time positions. The regional office network employs 9,817; the remaining 840 are employed by the Ageing, Disability and Home Care central office, the Disability Council and the Guardianship Tribunal. They cover six geographical regions. It is a very diverse workforce. Mr Ian Cohen has asked some complex questions. I will seek to obtain explicit information and come back to the member with more detail in due course.

PERPETUAL LEASES

The Hon. RICK COLLESS: My question is directed to the Minister for Lands. Is it a fact that the Land and Property Management Authority is offering holders of perpetual leases the opportunity to convert these leases to freehold? Is it also a fact that excessively restrictive covenants are being placed on these converted leases that are preventing owners from utilising these lands as freehold agricultural land? Why is the Minister forcing perpetual leaseholders to accept the freehold restrictions or face increases in lease rentals of up to 800 per cent? Will the Minister reconsider this policy and allow perpetual leaseholders to convert to freehold leases and deal with environmental issues under the Native Vegetation Act, the Threatened Species Act and other appropriate legislation, rather than impose completely unworkable covenants as a condition of conversion?

The Hon. TONY KELLY: The objective of the Crown land reforms that commenced in 2004—I think it was in a budget speech by the former Treasurer, Mike Egan—was to eliminate wasteful and unnecessary administration and to allow resources to be redirected to more active and effective management of other parts of the Crown estate. One aspect of these reforms was a special purchase offer to convert eligible perpetual leases to freehold by purchasing the State's residual equity or interest at a concessional price. The previous somewhat cumbersome assessment process was also streamlined to focus more on achieving positive outcomes such as protecting environmenta1 values through covenants rather than assessment for the sake of it. Environmental protection for lands to be converted to freehold title is now achieved by including conditions on title at the time of conversion.

The covenant framework utilised in the environmental assessment and protection of identified conservation values is based on several principles, and, where relevant, covenants will provide additional environmental protection whilst not duplicating existing legislative protection and permit practical ongoing farm management that meets landholder economic objectives. Lessee concerns about the fairness of applying these covenants are unfounded. The majority of perpetual leases converted to freehold do not require protective covenants as they are already highly developed. When covenants are required, they are negotiated with lessees to ensure that they are not unreasonably restrictive in relation to existing land management.

Lessees who do not agree with the proposed covenants have the option of continuing to hold their land under the perpetual leasehold tenure. However, if they choose not to purchase, they will pay a market-based rent from April 2010. Of the original 10,720 perpetual leases that could be purchased at the special price, purchase applications have not been received in respect of only 333 leases. I understand those referred to by the Hon. Rick Colless have been received. In keeping with the legislative changes that were enacted in 2004, the remaining 333 perpetual leases are now subject to a market-based rent. The respective lessees were previously advised about the last extension period that expired on 30 June 2009. They were also provided with ample details to enable them to make properly informed decisions on the purchase of their leases. Of the remaining 333 perpetual leases, the purchase price for 123 of them will be less than one year's rent; and the purchase price for a further 107 will be less than two years rent.

On that basis, I again encourage the eligible lessees in question to apply to purchase their holdings at the special purchase price. While a market-based rent will apply until these purchase applications are finalised, every effort will be made to expedite the processing of these applications to minimise the financial impacts on lessees. Last year the New South Wales Farmers Association approached me about some restrictive covenants based on some sales. I said that if it were to provide me with specific examples, I would review them. I invite the Hon. Rick Colless to also provide me with specific examples if he has any.

PUBLIC TRANSPORT COMMUTER SAFETY

The Hon. IAN WEST: My question is addressed to the Minister for Transport. Will the Minister advise the House on what action the Government is taking to keep commuters safe on public transport?

The Hon. JOHN ROBERTSON: I thank the member for his ongoing interest in commuter safety. Safety and security on the public transport network is, and always has been, a key priority for the Government. Each year RailCorp spends approximately $100 million on security staff and services to keep commuters safe—$100 million each and every year. In addition, the Government is continually investing in transport infrastructure and has installed: more than 8,600 closed circuit television cameras [CCTC], 7,000 high intensity lights and more than 700 customer Help Points across the rail network.

Bright orange emergency Help Points are located on every CityRail station on the network. They place the user in immediate two-way contact with an operator at a RailCorp security control centre who, in turn, has direct contact with emergency services and local stations 24 hours a day, seven days a week. In addition, RailCorp and the New South Wales Police Force regularly conduct joint operations, such as Operation Visions, to target crime and antisocial behaviour on the network. Such operations send a very clear message that crime and antisocial behaviour will not be tolerated. These measures are working. Independent data from the New South Wales Bureau of Crime Statistics show that since 2002 there has been a 30 per cent reduction of recorded offences against a person on CityRail property including trains and stations. This is good news for New South Wales commuters, and the results speak for themselves.

During the 2009-10 financial year CityRail patronage increased 2.9 per cent to 304.8 million passenger journeys. Customer surveys conducted by the Independent Transport Safety and Reliability Regulator show a reduction in the number of train users who felt threatened by the actions of other people on a train or at a station. But the Government knows that this is an important issue and it is doing more. The Government is buying new trains with more security features—such as closed circuit television cameras in carriages, introducing guardian services on selected Friday and Saturday night train services to provide CityRail customers further peace of mind when travelling at night, and introducing 2,000 new car parking spaces close to stations that have closed circuit television cameras and security lighting and fencing.

Our commitment to safety extends beyond trains and stations. At new commuter car parks the Government is installing approximately 450 closed circuit television cameras and thousands of additional security lights, and our private bus fleet is about to become even safer. As announced in today's budget, the Government will fund the acquisition of closed circuit television cameras and duress alarms worth $25 million over three years for private buses in New South Wales. Under this program, approximately 2,350 buses will be upgraded. The entire regular route bus fleet in Sydney, Wollongong and Newcastle and on the Central Coast will be fitted with efficient modern and effective security systems.

So while the Government is delivering more closed circuit television cameras, more high intensity lights, more transit officers and more commuter car spaces, what is the Opposition doing? It issued a press release—not a policy or a plan, but a press release. And what does the press release say? It says that the Opposition will spend $40 million over an unspecified period on unspecified projects to improve safety—$40 million! That is less than half what this Government spends each and every year just on security staff and services. Will this spending of $40 million by the Opposition take place over three years, five years or ten years? Who knows? But what we do know is that this Government is taking real action and producing real results improving security on the network and ensuring safer journeys for the people of New South Wales.

DEVELOPER LEVIES

Ms SYLVIA HALE: My question is directed to the Minister for Planning. Today in the Treasurer's Budget Speech he said:

> Our reforms include capping local government infrastructure levies, [and] providing $35 million in direct assistance to local councils to fast-track development.

Is the Minister aware that it is estimated that the capping of section 94 contributions by developers to $20,000 per development will cost Blacktown City Council about $400 million per year and that, to cover this shortfall in income, Blacktown council may have to increase its rates by 30 per cent? Given the proposed fast-track of development, how will the Minister compensate councils for the additional infrastructure and social costs, such as the provision of libraries and children's services that councils will incur as a result of fast-track development?

The Hon. TONY KELLY: I have just had a meeting with the mayor, general manager and town planner of Blacktown council at which I was provided with some preliminary figures. I can tell the House that those figures amount to nothing like $400 million a year. It is much lower. I should have thought that the Greens would support this process. The Greens claim that developers pocket all this money or, more particularly, that section 94 charges, which can be up to $50,000 a block—in Warriewood it might be $65,000 a block—are not passed on to householders by developers. But that is exactly what happens. All development costs, whether for building a road or purchasing land, are passed on to those who buy blocks of land. The Government is trying to reduce the up-front costs for the young families of western Sydney. After councils have gone through a thorough process with the Independent Pricing and Regulatory Tribunal—not the Government—and I know Ms Sylvia Hale might not like that—

Ms Sylvia Hale: No, you are passing it to an unaccountable body. This is a Government outsourcing government responsibility—

The PRESIDENT: Order! The Minister will continue to answer the question.

The Hon. TONY KELLY: I was just going to let the member finish and have it put into *Hansard*. Now she is bagging the Independent Pricing and Regulatory Tribunal. This will allow councils to make the final decision, after justifying their costs to the Independent Pricing and Regulatory Tribunal, whether they are transferred to the individual development or to the general ratepayers. Councils will make the decision, but they will have to justify their costs to the Independent Pricing and Regulatory Tribunal.

As part of that deal councils also will get something that they asked for many years ago. We will now have a local government cost index that better reflects local government costs. It is dependent on discussion with the Independent Pricing and Regulatory Tribunal, but rather than the criteria the Government uses, councils asked for criteria that reflects significant cost centres—for example, library charges and town planning charges, which escalate much higher than the consumer price index. Local government is keen to see some of the changes, but obviously transitional arrangements will have to be made whilst we move forward to the new area. In Victoria section 94 costs are less than $10,000, so costs are significantly higher in New South Wales. There is a significant problem about housing starts not meeting demand, which is driving up the cost of housing to young families around New South Wales.

I am glad that the member asked a question about the budget, but she neglected to talk about other parts of the budget, and I direct her to Budget Paper No. 3, volume 2, page 9-1, where she will see the massive increase of funding I have been given in my portfolios. The member should look at that more deeply and see that $20 million will be given to local governments in reward grants if they meet housing development targets, and they can spend that on infrastructure or however they like; $10 million to increase local environmental plans; $5 million to help them redo their section 94 plan— [*Time expired.*]

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

Questions without notice concluded.

LOCAL GOVERNMENT AMENDMENT (GENERAL RATE EXEMPTIONS) BILL 2010

Second Reading

Debate resumed from an earlier hour.

The Hon. HELEN WESTWOOD [5.02 p.m.]: I am pleased to support the Local Government Amendment (General Rate Exemptions) Bill 2010. As all members know, the work of local charities is at the core of what is good about our communities. Charities provide care and assistance to those most in need and it is appropriate that support be given to them in carrying out this vital work. It is true to say that there would not be a community in this State that does not have a local charity carrying out great works that support their local community.

The changes in the bill will ensure that where a property is owned by a charitable or religious body and is used partly for charitable purposes and partly for commercial purposes only the area used for charitable purposes will be exempt from rates. These changes fit in with the community's expectation of a fair go.

Obviously, commercial tenants should be paying rates, but charitable organisations should be exempted, and it is important to local councils that they receive rates for any commercial activity. I am sure we all would agree that it is very important that commercial tenants pay the appropriate rates to the local council. These are commonsense, practical changes that illustrate the Keneally Government's ongoing commitment to supporting the valuable work of charitable and religious bodies.

I am pleased to note that the bill also contains transitional provisions that ensure that where a charitable or religious body is currently leasing part of its land or property to a commercial body and the lease does not provide for the payment of rates by the lessee the entire parcel of land will continue to be exempt until such time as the lease expires. This provision will ensure that no public benevolent institution, charity or religious body will be inadvertently liable for general rates where they would otherwise be exempt. As other speakers have mentioned, the Local Government and Shires Associations support the amendments, because they obviously make great sense. I commend the bill to the House.

Reverend the Hon. FRED NILE [5.05 p.m.]: The Christian Democratic Party supports the Local Government Amendment (General Rate Exemptions) Bill 2010, which will introduce amendments to the Local Government Act 1993 to ensure that public benevolent institutions, public charities and religious bodies are exempt from paying general rates on land used for charitable purposes. I note that the Government's review of this area arose from requests by the Catholic Archdiocese of Sydney and the Council of the City of Sydney. The archdiocese and the council had requested that the Local Government Act be amended in line with what is now proposed in the bill.

The Local Government and Shires Associations support the amendments contained in the bill and the Christian Democratic Party also strongly supports them because it is a very important and fair bill that ensures that benevolent institutions, public charities and religious bodies are exempt from paying general rates on properties that they own and use for charitable purposes. However, sometimes part of their land is commercially let to a non-exempt body, and that has caused confusion with local councils, some of which have not then allowed exemption for the land that is being used for non-commercial purposes. This bill will make it clear that councils can now separate the two categories. It will provide for the granting of a partial rate exemption where part of the parcel of land is commercially let to a body that is not exempt from rates. The amendment will ensure a consistent approach between councils and ensure that land owned by a benevolent institution, charity or religious body is afforded a rate exemption to the full extent envisaged under the Act. I am pleased to support the bill.

Ms SYLVIA HALE [5.07 p.m.]: I speak for the Greens in relation to the Local Government Amendment (General Rate Exemption) Bill. When I first read the title of the bill I hoped that the Government had finally acknowledged the faults inherent in the existing rate-pegging regime. The State has suffered from the effects of rate-pegging legislation since it was introduced by the Wran Labor Government in 1976. But, after reading the bill, I see it is but a minuscule step in the right direction rather than a great leap forward.

The overview states that the object of the bill is to amend the Local Government Act 1993—the principal Act—to enable the separate valuation of parts of a parcel of land owned by a religious body, public benevolent institution or public charity that is used partly in a manner that is exempt from rating and partly in a manner that is not exempt from rating if rates are to be levied on the non-exempt part. The Greens support the purpose of the bill, which will clarify the situation for councils. Currently some councils charge charitable bodies for rates on a whole parcel of land because part of the land is commercially let. On the other hand, some councils provide a full rate exemption on a whole parcel of land, a part of which is let commercially.

The amendments will enable councils to request a valuation of land that is currently not exempt, so that rates can be levied on the land. One hopes that this will go some way to increasing local councils' revenue, because delivering quality local services to the community—from garbage collection, library services and child care to beach safety and maintaining parks and gardens—has become increasingly difficult for many councils. New South Wales is the only State in Australia that maintains a system of rate pegging, a system that restricts the ability of local councils to raise adequate income in order to address major infrastructure backlogs in their area.

Local councils have been subject also to significant cost increases from other public utilities and government agencies because of the pressure from those bodies to provide services on a cost-recovery basis. On the other hand, many services provided by local government are not cost reflective but are provided as public services to the community. Such things as libraries, passive and active recreation areas, aged and youth services,

and local infrastructure such as roads, drainage and footpaths, cost local councils far more than is received in revenue. Added to this is the ongoing cost shifting by government agencies to local government. Cost increases due to State awards and levies such as the New South Wales Fire Brigades Levy more than account for any increase permitted under the rate-capping regime.

All this is placing severe pressure on council budgets and their ability to provide the community with an appropriate level of service. With more and more responsibilities being delegated from the State Government to local government, rates should be increased rather than pegged, yet the Government expects councils to do more with less. Indeed, the State Government's decision earlier this year to reduce the 2010-11 rate cap for New South Wales councils to 2.6 per cent was already a detrimental step and one that will undoubtedly severely impact on the services that local communities rely on.

A former Minister for Local Government, Mr Kerry Hickey, claimed in 2006 that "The government monitors councils to make sure that communities get the quality of service they deserve in the most effective and efficient ways possible". Such a statement was, and still is, laughable, as the constant complaints from councils and local residents about failing infrastructure and inadequate funding for both maintenance and investment make clear. Not every council is as fortunate as Mid-Western Regional Council, and not every council has a prominent person able to lobby so effectively on its behalf.

It has always puzzled me why religious institutions have been exempt from paying what every citizen and other institution pays in what is nominally a secular State. With this bill there is at least some small movement towards addressing this anomaly. The exemption from rates applying to religious organisations places a large burden on local councils. This burden includes the costs of removing rubbish and the absence of any financial contribution towards footpaths, roads, libraries, upgrading parks and other vital community services.

That religious organisations at their best contribute a good deal to society is undoubted, but there are many other organisations that contribute similarly but receive no such special treatment from government. For example, in Petersham our local bowling club was on the verge of bankruptcy but a number of local community members banded together to take over its administration, preserve the open space and reactivate the club as a genuine centre of the Petersham community. It has in its own small way brought community members together and acted as a great generator of community spirit. However, the club was in a financially dire situation and it approached Marrickville Council for rates exemption to allow it to get back on its feet. While sympathetic, council was prohibited from providing such an exemption. While that may be well and good, there is little doubt the bowling club has played a regenerative role in our community, and indeed in a secular community it has arguably played a role similar to that which churches can play, that is, it brings people together, neighbours get to know each other and in doing so it makes the community stronger. As with so many other activities in our secular society, such activities gain little or no direct assistance from government, unlike religious institutions.

No doubt many in this place would refer to the important charitable work religious organisations undertake, and indeed they do. I too recognise the great work done by many religious groups but, as I have noted, they are not the only organisations to undertake this important work. We need to be careful when we change longstanding systems and structures in society. Perhaps in time we will see a fairer examination of how the wealth of this State is spread among both individuals and organisations. This bill does move us slightly in the right direction, which is an increasingly rare thing for this Government to do, but it is indeed a tiny step.

Reverend the Hon. Dr GORDON MOYES [5.14 p.m.]: On behalf of Family First I speak on the Local Government Amendment (General Rate Exemptions) Bill 2010. I believe I can speak from personal experience on this bill. The object of the bill is to amend the Local Government Act 1993 to enable the separate valuation of parts of a parcel of land owned by a religious body, public benevolent institution or public charity that is used partly in a manner that is exempt from rating and partly in a manner that is not exempt from rating if rates are to be levied on the non-exempt part.

In my 27 years as Superintendent of Wesley Mission and senior minister of the church of the mission I developed over 500 properties across New South Wales in virtually every major centre in suburban, regional and remote rural New South Wales. I was always pleased at the exemption from paying general rates on some of our properties when they were used totally for charitable purposes, as most were. I speak, therefore, as one personally involved in this issue and speak of what I know. Where the total property was used by Wesley Mission for commercial interests to support its fundraising initiatives we always offered to pay the council full rates as costed, including costs of roads, rubbish removal, maintenance of footpaths and the like, much to the appreciation of the local councils concerned. Other Christian charities also followed that example.

At times, however, some Wesley Mission properties did in fact let space to various commercial undertakings that were not exempt, and there was no proper mechanism in the Local Government Act 1993 to allow the local council to partially rate the non-exempt part. I argued that paying rates was only fair as we used the local roads, the local garbage collection and other council facilities. Inevitably this led to confusion and to different approaches by different councils. Some councils charged on the whole parcel of land because part of the land was commercially let, while others provided a full rate of exemption on the whole parcel of land because it belonged to Wesley Mission. There was no way of predicting which course would be followed by any particular council until we had face-to-face negotiations. This made budgeting for on-costs for over 500 properties in almost every municipal area in New South Wales extremely difficult.

The bill remedies that ambiguity and will provide a consistent approach to the granting of partial rate exemptions where part of a parcel of land is commercially let to a non-exempt body. This clarification has been needed for some time and I am pleased to see that it will be good for public benevolent institutions, public charities and religious bodies to have that consistency of purpose across all local councils and shires in the State. I note that this bill is supported by the Local Government and Shires Associations, as I would expect. I also note that this was discussed by Wesley Mission with the various Catholic archdioceses, which originally brought this issue to the fore. Therefore, on behalf of Family First and many of those charities with which I have been associated, I am pleased to support this sensible bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.18 p.m.], in reply: I thank members for their contributions to this debate and note that there seems to be consensus that the bill is worth supporting. 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.

INDUSTRIAL RELATIONS AMENDMENT (CONSEQUENTIAL PROVISIONS) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.20 p.m.] on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

The purpose of this bill is to make a range of relatively minor amendments to the New South Wales Industrial Relations Act 1996 and to update terminology in industrial relations legislation in New South Wales. These amendments are necessary as a consequence of the changes brought about when this Parliament passed legislation that referred private sector industrial relations matters to the Commonwealth under the Industrial Relations (Commonwealth Powers) Act 2009. That Act, which took effect on 1 January 2010, resulted in the creation of a national system for private sector employers and employees in this State. I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted.

The New South Wales Government's decision to participate in the national industrial relations system was made only after lengthy consultation and negotiations with the Commonwealth Government and only after the New South Wales Government was certain of the contents of the laws that would cover employers and employees in New South Wales.

The final piece of the Federal legislation the Fair Work (State Referrals and Other Measures) Act 2009 was only introduced into the Commonwealth Parliament in late October 2009.

Given that there was very little time to draft and pass the referral legislation before Parliament rose in 2009, the New South Wales Government decided to introduce legislation necessary to give effect to the referral and its consequences in two parts.

Members will remember that historic day late last year when the New South Wales Government introduced the Industrial Relations (Commonwealth Powers) Act 2009 into this Parliament.

The legislative docking mechanism in that bill had to be introduced and passed before the end of the 2009 Parliamentary session in order to ensure that the private sector industrial relations matters referred by New South Wales were part of the national industrial relations system when it commenced on 1 January 2010.

I now bring before the House the second part of the legislation which makes transitional and consequential amendments to the Industrial Relations Act 1996 and other industrial relations legislation so that the jurisdictions are aligned and the terminology used in new national system legislation is properly reflected in New South Wales Acts.

Members will remember that under the arrangements agreed with the Commonwealth for the creation of a national workplace relations system for the private sector, which is reflected in the terms of the referral legislation of both New South Wales and the Commonwealth, the Minister for Industrial Relations is empowered to make an order declaring local government or State public service sector entities to not be national system employers.

Where the declaration is endorsed by the Commonwealth Minister, the declared employers and their employees are thereafter covered by the State industrial relations system.

To ensure a smooth transition for these entities when they join the State industrial relations system, this bill makes provisions so that Federal awards and agreements that cover those entities and their employees are recognised and continue to apply as industrial instruments under the Industrial Relations Act 1996.

To avoid disruption to employees and employers when their industrial relations regulation moves from the Federal to the State system, a new transitional State instrument will be taken to be an award or enterprise agreement to achieve the greatest deal of correspondence to the type of instrument it was under the Federal system.

The nominal expiry date of a new State instrument will fall on the same date that the former Federal instrument would have nominally expired or the date the instrument is rescinded or terminated, if those dates occur before a maximum nominal expiry date of two years from the date of transition.

The bill also provides the New South Wales Industrial Relations Commission with a broad discretion to exempt a party from the Act and vary or revoke any provision of such an award or enterprise agreement if it is satisfied that is fair and reasonable to do so under the circumstances.

Such circumstances may include assessing the appropriateness of terms and conditions of a former Federal industrial instrument having regard to the legislative minimum conditions and standards, test case principles and the no-net detriment test in New South Wales.

Also, the bill provides that a regulation can be made to ensure that any other matters necessary to ensure a smooth transition of these instruments can be achieved.

As part of updating terminology, this bill replaces references to the previous Commonwealth industrial relations laws for example the Workplace Relations Act 1996 and the instruments under that Act with references to the current Fair Work laws and the instruments under the new national industrial relations system.

Similarly, the bill replaces references to the Australian Industrial Relations Commission in the Industrial Relations Act 1996 with a reference to the new independent umpire established under the Fair Work Act 2009, Fair Work Australia.

This is particularly relevant for section 50 of the Industrial Relations Act 1996 which requires that as soon as practical after the making of a national decision, a Full Bench of the New South Wales Industrial Commission must give consideration to that decision.

Under section 50, the Industrial Relations Commission of New South Wales must adopt the principles and provisions of a national decision for the purposes of awards and other matters under the Act unless it is satisfied that it is not consistent with the objects of the Act or that there are other good reasons for not doing so.

Members will remember that before the introduction of the WorkChoices legislation by the Howard Government, there was a high degree of comity between State and Federal industrial relations tribunals.

The WorkChoices laws were destructive in a number of ways and were no less divisive in how they broke up the relationship between independent tribunals throughout Australia which had provided uniform annual wage outcomes across the nation each year.

In the State Wage Case 2006 decision, the Industrial Relations Commission of New South Wales held that:

> "A decision of the Australian Fair Pay Commission has no statutory relevance for this Commission and it is only a 'National decision' of the Australian Industrial Relations Commission that we are required to consider under section 50 of the Act."

The Industrial Relations Commission of New South Wales went on to state that:

> "the Work Choices Act has no express reference to fixing safety net wages for the low paid according to either the hereto fundamental important criterion of fairness or the needs of the low paid".

Through section 284 of the Fair Work Act 2009, the Rudd Government has reintroduced the requirement for an independent body, Fair Work Australia, to establish and maintain a safety net of fair minimum wages.

Unlike the Howard Government's Fair Pay Commission, Fair Work Australia is guided by a balanced set of factors similar to the Industrial Relations Commission of NSW to make fair and just decisions.

That's why it's now appropriate for the Industrial Relations Commission of New South Wales to once again take into account national decisions such as annual wage review decisions and consider whether it is appropriate to adopt those principles or provisions for the purposes of awards and other matters under the Industrial Relations Act 1996.

The jurisdiction of the Industrial Relations Commission of NSW still applies to the public service sector and local government and although most private sector industrial relations matters have been referred to the Commonwealth there are workers identified under schedule 1 of the Industrial Relations Act 1996 who will remain subject to decisions of the Industrial Relations Commission of New South Wales. These are the workers who will benefit from the commission's consideration of minimum wage decisions of Fair Work Australia.

As part of aligning the NSW industrial relations laws with the new national industrial relations legislation, the bill also amends section 1468 of the Industrial Relations Act 1996.

Various provisions of the Fair Work Act 2009 and its predecessor, the Workplace Relations Act, made it possible for the parties to various types of Federal industrial instruments to nominate persons to provide dispute resolution services.

Most Preserved State Agreements have now expired but some have had their nominal duration extended pursuant to the provisions of Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 which was the first tranche of Fair Work laws.

It is appropriate for the New South Wales laws to be amended to ensure that rights of parties to nominate members of the State commission as their dispute provider is respected. In that context, the definition of Federal enterprise agreement has been broadened to include a Preserved State Agreement where such an agreement is still in its nominal term.

The amendments to section 146B before this House simply ensure that parties who have previously agreed may continue to nominate members of the Industrial Relations Commission of New South Wales to perform such dispute resolution services.

The bill also makes a minor technical amendment updating terminology in section 4(13)(a) of the Long Service Leave Act 1955 so that a Federal award includes a modern award and a Division 2B State award.

The package of amendments in this bill moved by the Government are relatively minor but highly necessary and this bill completes the job which commenced late last year of creating one set of laws for private sector industrial relations in New South Wales.

The bill also ensures that where a government entity is declared to be more appropriately regulated under the State jurisdiction, the transition back into the State system will be as smooth as is possible. Conditions of employment applying to employees in instruments transitioning will be respected so long as they meet New South Wales minimum conditions of employment. The commission will be at hand to resolve any difficulties that may arise.

The bill also respects the wishes of parties in Preserved State Agreements to have their preferred commission members from the State Industrial Relations Commission resolve disputes.

This is another example of the respect that the Industrial Relations Commission in New South Wales has from business and employees in this State.

The New South Wales commission has played a vital role and will continue to be called upon by employees and employers in the public service sector and local government sector to resolve the most complex of disputes.

This bill finishes the job of creating a national system of industrial relations in New South Wales, one set of laws applying to each workplace, a great achievement in this State. This Government will continue to ensure that the industrial relations jurisdiction in this State remains fair, equitable, modern and productive.

I commend this bill to the House.

The Hon. GREG PEARCE [5.22 p.m.]: The Industrial Relations Amendment (Consequential Provisions) Bill 2010 will make amendments to the Industrial Relations Act 1996 as a consequence of the enactment of the Industrial Relations (Commonwealth Powers) Act 2009, which referred certain matters relating to private sector workplace relations to the Commonwealth. The New South Wales Liberal-Nationals Coalition does not oppose this legislation, which primarily makes some technical and terminology changes as a consequence of the earlier legislation. The purpose of the bill is to make a range of relatively minor amendments to the New South Wales Industrial Relations Act 1996 and to update terminology as a consequence of the changes brought about when the Parliament passed legislation that referred private sector industrial relations matters to the Commonwealth.

The bill also makes provisions relating to the public sector and empowers the Minister for Industrial Relations to make an order declaring local government or State public sector entities not to be national system

employers as they remain under the State system. The New South Wales Liberal-Nationals Coalition supports the retention of the New South Wales public sector in the State system. The bill also makes provision for State employees subject to Federal awards to continue to be covered by the provisions of those awards—again, a measure that will enable the public sector to remain under the coverage of the State system.

As part of updating terminology the bill replaces references to the previous Commonwealth industrial relations laws where there are references to the Workplace Relations Act 1996 and the instruments under that Act with references to the current fair work laws and the instruments under the new national industrial relations system. Similarly, the bill replaces references to the Australian Industrial Relations Commission in the Industrial Relations Act 1996 with a reference to Fair Work Australia. The New South Wales Liberal-Nationals Coalition believes this to be sensible follow-on legislation and does not oppose it.

The Hon. GREG DONNELLY [5.24 p.m.]: I support the Industrial Relations Amendment (Consequential Provisions) Bill 2010, which has as its purpose to make a range of minor but necessary amendments to the New South Wales Industrial Relations Act 1996 as a consequence of this Government's historical achievement in negotiating a fair and equitable set of national industrial relations laws that apply to the private sector in New South Wales. Today I wish to outline one aspect of this bill concerning the proposed amendment to section 146B of the Industrial Relations Act 1996. This amendment will ensure that employers and employees in the national system who are covered by enterprise agreements originating from the old State industrial relations system will continue to have access to members of the Industrial Relations Commission of New South Wales as their provider of dispute resolution services, where the parties so desire.

These old State agreements are called preserved State agreements in the national system. The capacity of national system employers and employees to choose anyone, including the members of the State Commission as their preferred provider of dispute resolution services, is enshrined in the Fair Work Act 2009 and its predecessor the WorkChoices laws before that. Section 146B is designed to do nothing other than to make it clear that it is permissible for members of the State Commission to exercise such powers and functions as the national system agreement might bestow upon them. The proposed amendment to section 146B, like the other amendments in this bill, is to ensure a smooth transition from the Federal system of industrial relations to a national system of industrial relations. Thus the amendment to section 146B ensures that the range of agreements under the Federal law to which section 146B applies will also include preserved State agreements where their nominal term has not expired.

In the vast majority of cases the nominal term of most preserved State agreements will be expired by now. The amendment will not apply to such cases. Parties to expired preserved State agreements will need to enter into new enterprise agreements under the Fair Work Act 2009. It is worth noting that the Fair Work Act 2009 permits parties to agreements to nominate who they would like their provider of dispute resolution services to be, and this means that such parties may still choose to nominate a member of the State commission as their dispute provider. Some employers and employees will have taken advantage of the opportunity provided by the Commonwealth Government to seek extension of the nominal terms of their preserved State agreements.

This interim measure was put in place by the Commonwealth to assist the parties to preserve their old arrangements until the new fair work system could be put into place. The amendment will enable employers and unions representing employees with whom they made their old State enterprise agreements to keep their agreements in place during their nominal period of operation rather than having to negotiate new agreements ahead of time simply in order to maintain access to members of the State commission. The current exclusion of preserved State agreements came to light as a consequence of the referral of private sector industrial relations matters to the Commonwealth and it is appropriate that this issue be dealt with now in this bill, which ties up any loose ends—a consequence of the referral of industrial relations matters from the private sector to the Commonwealth jurisdiction.

Again, this will ensure a smooth transition into the national system for employees and employers covered by these types of agreements. The bill finishes the job of creating a national system of industrial relations in New South Wales. However, this will not stop the New South Wales Government from continuing to ensure that employees and employers are regulated by fair, equitable, modern and productive sets of laws in this State. I commend the bill to the House.

Reverend the Hon. FRED NILE [5.28 p.m.]: On behalf of the Christian Democratic Party I support the Industrial Relations Amendment (Consequential Provisions) Bill 2010, the second of two bills that reflect the changes that need to be made in New South Wales as a result of the passage by the Commonwealth

Parliament of the Industrial Relations (Commonwealth Powers) Act 2009. As that legislation was passed only in late October 2009, it gave New South Wales very little time to adopt referral legislation before the conclusion of the parliamentary sitting at the end of 2009. Rather than delaying the bill, the Government decided to introduce the necessary legislation to give effect to referral legislation.

The first bill that was passed took immediate effect, while the second bill—the one with which we are now dealing—deals with a large number of administrative changes that arose in the first bill. This bill, which deals with relatively minor matters, will replace references to the Industrial Relations Act 1988 and the Workplace Relations Act 1996 in New South Wales industrial relations legislation with the Fair Work Act 2009 and, where relevant, the Fair Work (Registered Organisations) Act 2009. If a local government or State public service sector entity is declared not to be a national system employer and hence becomes covered by the State industrial jurisdiction the bill provides transitional provisions recognising Federal laws and agreements covering those entities.

Finally, the bill replaces references to the Australian Industrial Relations Commission with references to the Full Bench of Fair Work Australia and the Minimum Wages Panel—the new independent umpire established under the Fair Work Act 2009. Unlike other members of the House, particularly Government members, I am not an expert on industrial relations; however the wage increase recently given to workers on the lowest wage was long overdue. Fair Work Australia seems to be operating reasonably well. Hopefully Fair Work Australia will achieve good results in establishing a balance between employers and workers to ensure that workers get fair pay.

The Hon. IAN WEST [5.31 p.m.]: I support the Industrial Relations Amendment (Consequential Provisions) Bill 2010. Members are well aware of this Government's commitment to the implementation of the national workplace relations system. This commitment was not given lightly. After the Howard Government's attempts to unilaterally wrest industrial relations powers from the States and replace longstanding, tried and tested State systems with the failure that was WorkChoices, our approach to participating in a national system was given with much caution. Before giving our commitment, it was imperative that the final form of the Commonwealth's new Fair Work Act was consistent with our principles for a fair and productive industrial relations system. These principles were, first, the right of employers and employees to bargain to make workplace agreements without Government dictating what can and cannot be agreed; secondly, a fair minimum wage set by a truly independent tribunal after a public hearing; thirdly, an up-to-date and comprehensive safety net for all workers written in plain English; fourthly, an independent umpire with broad dispute-settling powers, including disputes about dismissal; and, finally, special protections for vulnerable workers, including protection from exploitative contracting arrangements. These principles have been largely reflected in the Fair Work Act.

The New South Wales Government also considered it imperative that the Commonwealth not have power to amend a national system unilaterally. In contrast to the Howard Government's contempt for a harmonious and cooperative system, the Commonwealth Government has recognised the role of the States as active and productive participants. The signing of bilateral and multilateral agreements between the Commonwealth and State governments has formally codified the participatory role of the New South Wales Government, establishing consultation requirements for the Commonwealth and a voting mechanism to prevent unilateral amendment. An extension of this has been the Commonwealth's recognition of the experience of New South Wales institutions and agencies in successfully delivering productive and harmonious industrial relations in New South Wales for more than a century.

The Fair Work Act provides for the appointment of members of the Industrial Relations Commission of New South Wales to the National Tribunal, and for the appointment of New South Wales industrial inspectors as Fair Work inspectors. I am pleased to report that these provisions have been utilised, which has contributed to the cooperative and successful initial stages of transition and implementation. The New South Wales Government's commitment to the national system was given legislative force under the Industrial Relations (Commonwealth Powers) Act 2009 when it was passed last year with Opposition support. This legislation referred certain industrial relations powers to the Commonwealth to enable the establishment of the national workplace relations system. With this legislative commitment to the national system came ongoing responsibility.

The referring legislation was drafted and progressed through Parliament with the highest priority to ensure that the national system could be delivered smoothly and in line with the promised time frames. As we progress further along the path of implementation for the national workplace relations system, it has become evident, as expected, that some minor consequential, technical amendments are required to ensure that the

legislation establishing the national system operates as intended. Accordingly, the Industrial Relations Amendment (Consequential Provisions) Bill 2010 proposes, first, to update references in the New South Wales Industrial Relations Act to correctly refer to the Fair Work Act 2009, its provisions, institutions and associated legislation; secondly, to establish transitional arrangements for Federal industrial instruments of employing entities who move from the Federal system into the New South Wales system; thirdly, to confirm that a national decision made under the provisions of the Fair Work Act is considered a national decision for the purposes of the Industrial Relations Act; and, fourthly, to clarify that a member of the Industrial Relations Commission of New South Wales has the authority to deal with a dispute referred to it under a preserved State agreement. Consistent with our commitment, it is now our responsibility to make sure that these amendments progress expeditiously. I commend the bill to the House.

Ms LEE RHIANNON [5.36 p.m.]: The Greens support the Industrial Relations Amendment (Consequential Provisions) Bill 2010. Agreement across parties on industrial relations legislation certainly is an interesting development; not long ago it was a deeply divisive issue. This is another bill that harmonises legislation across States and Territories. As other members have said, the bill provides a fair set of national industrial relations laws that apply to the private sector. The previous speaker summed it up very well when he gave a succinct coverage of how the bill ensures the rights of employees and employers to negotiate independent of government for a fair wage, an up-to-date and comprehensive safety net, an independent umpire for issues dealing with dismissal and the all-important special protection for vulnerable workers.

Mr Greg Donnelly emphasised that the bill provides for the role of the New South Wales Industrial Relations Commission. The Greens believe it is important that this is set out because of the unique role of this commission. The provision about the commission is important in its own right, but also in what it signals. Much of the legislation coming through the Parliament recently is harmonising legislation. Crossbench members are frequently told that it is mechanical-type legislation that has to be passed because the same legislation is being passed in all States and Territories. Harmonising legislation can have benefits across the country, but there can be exceptions. The New South Wales Industrial Relations Commission can play a useful role.

We must remember that with harmonising legislation the bar always needs to be raised to the best practice so that New South Wales or, for that matter, another State or Territory does not fall behind and that working people or whoever is covered by the legislation ends up worse off. In such a debate it is important that we acknowledge the role of unions and their members in upgrading industrial relations conditions. While we are at the end of the process in this instance—debating legislation that will be passed—we must always remember that the reasons working people have conditions such as lunch breaks to job safety to holiday pay is that unions and their members struggled and took strike action to make a stand for such conditions.

Obviously, our parliaments play a clear role in formulating legislation, but this legislation did not come about because one day a politician suddenly had the idea that we needed to improve the conditions of working people. There has been much suffering and struggling to reach this point. Our role is always to guarantee that we work with employees to ensure that workplace protection is world class and that we do not go backwards at any point. I reiterate the point I made at the commencement of my speech: it is fascinating that we have agreement across the parties when one considers how divisive industrial relations legislation has been over the years at both a State and Federal level, even in very recent times.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.40 p.m.], in reply: I thank all members who contributed to the debate. The Industrial Relations Amendment (Consequential Provisions) Bill 2010 makes a range of minor but necessary amendments to update the terminology in the Industrial Relations Act 1996 and the Long Service Leave Act 1955 to reflect the new national industrial relations system. The bill also finetunes the provisions necessary as a consequence of enacting the Industrial Relations (Commonwealth Powers) Act 2009, which referred sufficient power to enable the Commonwealth to create a national industrial relations system for the private sector.

Due to the extremely short time frame in which to draft and pass the Industrial Relations (Commonwealth Powers) Bill 2009 through Parliament before 1 January 2010, there was insufficient time in which to draft all the miscellaneous amendments that were required to be made to update New South Wales industrial relations legislation. This is what the amending bill before the House is intended to do. The bill updates the terminology to accurately identify the new Commonwealth legislation—for example, the Fair Work Act 2009, the new institution Fair Work Australia and the new definitions of industrial instruments established under the Fair Work Act 2009.

The bill also finetunes some provisions and ensures that traditional arrangements are in place to achieve a smooth transition for entities that may move in future from the Federal system to the State industrial relations jurisdiction. In summary, the bill replaces references to the Industrial Relations Act 1988 and the Workplace Relations Act 1996 in New South Wales industrial relations legislation with the Fair Work Act 2009 and, when relevant, the Fair Work (Registered Organisations) Act 2009. When a local government entity or a body that is established for a public purpose under a New South Wales law is declared not to be a national system employer, and hence becomes covered by the State industrial jurisdiction, the bill provides transitional provisions to recognise Federal awards and agreements covering those entities.

The bill replaces references to the Australian Industrial Relations Commission with references to the Full Bench of Fair Work Australia and the Minimum Wages Panel, which is the new independent umpire established under the Fair Work Act 2009. In that context the bill provides that the Industrial Relations Commission of New South Wales will consider national decisions of the Full Bench of Fair Work Australia and the Minimum Wages Panel as to whether those decisions should be applied in the New South Wales jurisdiction.

The bill also makes consequential amendments to section 146B of the Industrial Relations Act 1996 to confirm that the definition of a Federal enterprise agreement includes a preserved State agreement when the agreement is within its normal term. This will ensure that the parties' wishes will be respected when they choose a member of the Industrial Relations Commission of New South Wales to provide dispute resolution services. The proposals in the bill finish the job of enacting legislation to refer private sector industrial relations matters to the Commonwealth to make sure that the transition to the national system of industrial relations is as smooth as possible. 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.

LIQUOR LEGISLATION AMENDMENT BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.44 p.m.], on behalf of the Hon. Peter Primrose: 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 Liquor Legislation Amendment Bill 2010 is a key component of the Government's comprehensive plan to assist New South Wales' residents to enjoy safe nights out in popular entertainment precincts without the hassle of alcohol-fuelled violence and antisocial behaviour. The bill implements some of the measures in the Government's Hassle Free Nights Action Plan. The action plan consists of a range of initiatives to further reduce alcoholrelated crime in some of the most popular entertainment precincts in New South Wales, including areas of the Sydney central business district, Manly, Newcastle-Hamilton, Wollongong and Parramatta.

The action plan also includes measures that will improve liquor licensing outcomes across New South Wales. Significant progress has been made in reducing alcohol-related crime with the Bureau of Crime Statistics and Research reporting that

assaults on licensed premises dropped by 8.8 per cent over the two years to September 2009. There has also been a significant downward trend in non-domestic violence assaults. In the quarter ending September 2009 this type of assault dropped by 11.6 per cent in the Sydney local government area and 4.5 per cent across the State.

Early indications are that the tough conditions imposed on the most violent venues have made a significant contribution to reduced rates of alcohol-related violence in and around licensed premises. NSW Police have reported that the incidence of glassings dropped by 23 per cent in 2008-2009 compared to 2007-2008. There was also an 86 per cent reduction in glassings in the most violent licensed premises following imposition of licence restrictions on these venues from 1 December 2008. While good progress has been made there is more to be done in this area. The Government is determined to continue to tackle the ongoing problem of antisocial drinking and alcohol-related violence.

The Hassle Free Nights Action Plan brings together law enforcement agencies, government departments, local councils, community representatives and industry to work collaboratively on delivering sustainable and long-term solutions to the unique issues faced by the different precincts. Prevention is the best cure. That is why the plan focuses on early intervention strategies that reduce risks and stop problems before they occur.

One of the most significant initiatives in Hassle Free Nights which will be enabled by this bill is the establishment of precinct liquor accords. Under the bill the Director General of Communities New South Wales will be able to designate a precinct as one to which a precinct liquor accord is to apply or an event to which a community event liquor accord is to apply and may approve the terms of the particular accord. To do so the director general will need to be satisfied that in the precinct there is or there is a potential for a significant risk of harm to members of the public associated with the misuse and abuse of liquor including harm arising from violence or other antisocial behaviour.

The director general must also be satisfied that the measures to be adopted by the accord are necessary to prevent harm to members of the public associated with the misuse and abuse of liquor in the precinct or area, or to protect and support the good order or amenity of the precinct or area in connection with issues arising from the presence or proposed increase in the number of licensed premises in the precinct or area. Five high-risk precincts where liquor accords will be established have already been identified. The precincts are: the Sydney central business district and surrounding areas, Manly, Newcastle and Hamilton, Parramatta, and Wollongong. There is a history of alcohol-related problems in these precincts and they can obviously benefit from the types of measures that will be developed under a liquor accord. While the initial focus is on these five precincts the legislation provides for the establishment of precinct liquor accords in other areas if that is necessary.

Another new initiative in the bill is a community event liquor accord. The Government has already identified: New Year's Eve, Australia Day celebrations, the Sydney Gay and Lesbian Mardi Gras and the Bathurst car races as examples of events that may be subject to community event liquor accords. Accords may also be established for other events where there is a significant risk of harm to members of the public associated with the misuse and abuse of alcohol and accord measures are necessary to prevent that harm or to protect and support the good order or amenity of the area in which the event is being held in relation to certain issues.

An important principle driving the establishment of precinct liquor accords and community event liquor accords is that of local stakeholders coming together to develop local solutions to local problems. This is an established principle that has applied to local liquor accords for many years. The precinct liquor accord and community event liquor accord provisions in this bill are based on existing local liquor accord provisions in part 8 of the Liquor Act. However there are some important differences from local liquor accords which is why the bill establishes a new division in part 8 of the Act.

It is hoped that licensees and other businesses in designated precincts or areas will opt to voluntarily implement the measures in the liquor accord to minimise or prevent alcohol-related violence or antisocial behaviour or other alcohol-related harm or protect and support the good order or amenity of the precinct or area. However, when a licensee does not participate voluntarily the bill allows the director general to impose a condition on a liquor licence requiring participation if the licensed premises are situated in the precinct or area to which an accord applies. While the bill requires that a licensee be notified of a requirement to participate it does not provide for a review of the director general's decision requiring participation.

Licensed venues that trade after midnight and are located within a designated accord precinct or area will automatically be required by the bill upon notification by the director general to participate in an accord. This will include licensed karaoke venues that trade after midnight. Non-compliance by these licensees will be a breach of a licence condition, which can result in a maximum penalty of $11,000 or ultimately in disciplinary measures such as suspension or cancellation of the licence. The Government recognises that these are tough provisions. But they are necessary if we are to reduce alcohol-related violence and antisocial behaviour. They send a strong message to licensees in highrisk precincts and areas where events are held that they must be a part of the solution in addressing alcohol-related harm and protecting and supporting the good order or amenity of their local area.

For liquor licensees the bill defines participation in an accord as including participation in the development of the accord's measures as well as complying with those measures to the extent that they apply to the licensee. This will ensure that relevant licensees are engaged in the accord process through consultation in the development of measures and during the operation of an accord. Although this bill necessarily focuses on licensed venues, it is clear that a holistic approach is required to reduce alcohol-related harm. As I have already mentioned, other stakeholders will need to contribute to an accord in addition to liquor licensees. These stakeholders will play a vital role in helping to deliver accord outcomes and the success of accord initiatives will depend on their participation and support.

This is recognised in the bill, which provides that a range of persons or bodies in addition to liquor licensees may participate in a precinct liquor accord or community event liquor accord. Those persons or bodies include: the New South Wales Police Force, local councils, persons who are running businesses or commercial operations in the precinct or area, community representatives approved by the director general and any other person or body that the Director General of Communities New South Wales considers appropriate. It may not be necessary for all of these stakeholders to participate in every accord. However, a collaborative approach is vital in minimising or preventing alcohol-related harm and protecting and supporting the good order or amenity of a precinct or area.

The Government therefore expects all stakeholders to work together to secure these accord objectives. Accords will include measures that the Director General of Communities New South Wales considers necessary to achieve certain aims. The bill provides guidance as to the types of measures that accords may provide for, including ceasing to serve liquor early, establishing lockouts, restricting the use of glass containers, installing closed-circuit television or other security devices, and providing security staff. These types of measures have been identified in the liquor laws for some years as measures that a local liquor accord can implement.

The bill also recognises that accords may provide for measures requiring licensees to do other things in order to minimise alcohol-related harm or to protect and support the good order or amenity of the precinct or area to which the accord applies in connection with issues arising from the presence or proposed increase in the number of licensed premises. This could include adopting management practices to encourage improved patron behaviour, provision of transport and security, patron education and training for venue staff. Once the necessary measures to be provided for by an accord have been developed the accord can be approved by the Director General of Communities New South Wales.

The bill requires that each participant in a precinct liquor accord or community event liquor accord be notified of the terms. The director general will ensure the designated precinct to which an accord applies is shown on a publicly available map. For community event liquor accords the director general will make publicly available the name or description of the community event to which the accord relates, the period during which the accord is to apply and a map showing the areas in which the accord is to apply.

Under the Hassle Free Nights Action Plan the Government has committed $1 million over 12 months to support the work of the precinct liquor accords. The main purpose of this contribution by the Government is to work with the local partners in these precinct liquor accords to establish new local projects under specified categories that have the potential to significantly reduce the risk and consequences of alcohol-related violence and antisocial behaviour. The Government will contribute to the cost of implementing these projects provided that licensees also contribute funds on a 50:50 basis with the Government. Funds may also be directed towards supporting the operation of the precinct liquor accord. All funded projects will include an evaluation to build the evidence base in this area. In instances where precinct liquor accord participants refuse to voluntarily provide funds for the accord strategies the bill allows the Director General of Communities New South Wales to direct a licensee to contribute to the costs associated with the operation of the accord. The amount of any such contribution is to be determined by the director general in accordance with the terms of the accord.

This provision will help to ensure responsibility for accord initiatives is shared equally across Government and those industry stakeholders who will benefit from the safer environment that will flow from a precinct liquor accord. Non-compliance with a direction can ultimately result in disciplinary action under the Liquor Act, which could lead to suspension or cancellation of a liquor licence. The community has expressed concern about extended trading hours for licensed venues. The Government understands that mechanisms must be available to promptly and appropriately address the trading hours where necessary. Therefore, the bill also amends the Liquor Act to provide the Director General of Communities New South Wales with the power to reduce or vary a licensed venue's trading hours. Specifically the director general will be empowered under section 54 of the Liquor Act to impose a condition to prohibit the sale or supply of liquor before 10.00 a.m. and after 11.00 p.m. or to vary or revoke such a condition.

The director general will also be able to restrict the trading hours of and public access to licensed premises. These powers mirror the director general's existing powers under section 81 of the Act in relation to disturbance complaints. They can be applied to individual licensed venues throughout the State and will not be limited to venues in accord areas. Licensees will continue to have the right to be heard and the right to seek a review by the Casino, Liquor and Gaming Control Authority. Clarifying the director general's power under section 54 will promote transparency and reduce red tape in regulating trading hours. It will improve the Government's ability to promptly and appropriately reduce the risk of alcohol-related violence.

In relation to trading hours I point out that it is possible for the measures developed by participants of precinct and community event liquor accords to include reductions to trading hours. When this type of outcome is approved as a term of an accord, licensees required to participate in the accord may be required to comply. As I have already indicated, licence conditions requiring participation in an accord and thereby also requiring compliance with the measures provided for by the accord will not be reviewable by the Casino, Liquor and Gaming Control Authority. This is appropriate given that action under the accord framework to reduce trading hours will be on the basis that a reduction is necessary for the good of the precinct or area and will apply across a range of accord participants.

We need to ensure that licence conditions are well understood and that they tangibly contribute to making venues safer and to ensuring that they are better managed. The Government's experience in imposing a common set of conditions on the most violent licensed premises has worked well. Standardising conditions for venues that are alike in their operations and risk levels provides clarity, reduces compliance costs and addresses competitive concerns that can act as barriers to effective outcomes. Under the Hassle Free Nights Action Plan Communities New South Wales will consult with relevant agencies and stakeholders in reviewing conditions of licences in a designated precinct liquor accord. This review will develop and apply optimal standard conditions to venues to promote community safety and ensure proportionate, transparent and effective regulation of industry.

The Government will trial the application of standard liquor licence conditions for venues in the precincts where accords will be established. The standard conditions will operate alongside relevant tailored conditions specific to that venue. The standard conditions may be modified to accommodate individual circumstances where appropriate. Some existing conditions may need to be varied or revoked as part of the trial of the standard conditions. Therefore the bill also amends section 54 of the Liquor Act to allow the director general to vary or revoke a condition of a licence that has previously been imposed by the director general or by the Casino, Liquor and Gaming Control Authority for premises situated wholly or partly in an accord precinct or area.

The intended result is a simplifying and streamlining of conditions, which will reduce the costs of compliance for industry without lessening the protection of patrons and the community. These simplified conditions can also be used as a model for licensed venues outside of the precinct liquor accord areas. This process will support the Government's commitment to reducing red tape. Again, licensees will continue to have the right to be heard and the right to seek a review by the authority of the director general's decision.

In 2009 the Government amended the Liquor Act to impose a 12-month freeze on certain new liquor licences and related development applications in Darlinghurst, Kings Cross and the southern Sydney central business district. Among other measures, as a result of the freeze, no new liquor licences for new pubs, bars, clubs, nightclubs or liquor stores will be granted for premises situated in identified freeze precincts. The law currently provides that the freeze will end on 24 June 2010. However, the bill extends the freeze in these locations for a further 12 months. This extension will allow a more comprehensive assessment of the effectiveness of the liquor licence freeze to be undertaken. It will also allow Communities New South Wales to undertake a comprehensive review of the potential applicability of the liquor licence freeze in additional high risk precincts.

If this review finds that a freeze is warranted in any additional locations Communities New South Wales will provide the Government with advice about the scope and extent of any proposed freeze on a location-by-location basis. Alcohol-free zones and alcohol prohibited areas help to reduce incidents of public drunkenness, alcohol-related antisocial behaviour and crime. The alcohol-free zone laws were amended by the Government in 2008 to allow alcohol that is being consumed in a zone to be confiscated. Alcohol can be confiscated also if a police officer or an enforcement officer has reasonable cause to believe that the person is about to drink or has recently been drinking that alcohol in the alcohol-free zone. These are more commonly referred to as "tip out" powers because confiscated alcohol may be disposed of immediately by tipping it out in accordance with directions given by the Commissioner of Police or the council.

Local councils have raised concerns with the Government about inconsistencies in the rules around the confiscation of alcohol in alcohol-free zones and in alcohol prohibited areas. Alcohol prohibited areas are public places in which the drinking of alcohol is prohibited by a notice erected by a local council under section 632 of the Local Government Act 1993. At present, alcohol that is being consumed in these areas cannot be confiscated. Instead a fine applies where a person fails to comply with the terms of a notice. During popular events where groups of friends gather to celebrate in public locations, such as Australia Day, the inconsistencies in the rules applying to the two types of areas create challenges for enforcement officers. Therefore, the bill implements the "tip out" arrangements in alcohol prohibited areas so that there is a consistent approach to restricting the drinking of alcohol in designated public spaces during these popular events.

The amendments to the Local Government Act in this bill will provide for confiscation of alcohol by police officers or authorised council enforcement officers in alcohol prohibited areas where the area is situated wholly or partly in a precinct liquor accord area or in a community event liquor accord area. The existing fine will continue to apply where a person fails to comply with the terms of a notice erected under section 632 of the Local Government Act. Another key component of the Hassle Free Nights Action Plan is to strengthen the existing scheme under the Liquor Act, which imposes special conditions on the most violent licensed premises. We need to be sure the scheme properly targets those hotels, clubs, bars and other licensed venues that are the site of violent incidents. And it is not only assaults that account for violent activity occurring in and around licensed venues. There are other categories of incidents that are equally detrimental to the safety and wellbeing of patrons and the community. That is why the scheme is being strengthened so that a wider range of violent incidents is captured.

From the period that commenced on 1 December 2009 the data that is collected and assessed to determine the most violent licensed premises across the State is no longer limited to "assaults". The types of incidents included in the scheme have been expanded to include other violent offences including grievous bodily harm, sexual assault and homicide. The Government has also ensured that alcohol-related incidents that can occur at a particular licensed venue or in the immediate vicinity of the licensed premises, such as the footpath directly outside or the venue's car park, are attributed to licensed premises. These changes are implemented by a separate regulation under the Liquor Act and apply to the scheme from 1 June 2010.

Greater individual responsibility for the consumption of alcohol is also a key issue if we are to reduce the incidence of alcohol-related violence and ensure more responsible consumption of alcohol. Under the Hassle Free Nights Action Plan the Government will better inform individuals about the health and justice consequences of irresponsible behaviour. The Government will create a cross-agency steering group to oversee the development of consistent messages in this area. This will support the implementation of a coordinated individual responsibility campaign providing the community with information on the health, security, transport, and justice implications of the consumption of alcohol. The campaign will aim to ensure patrons are aware of the risks and their responsibilities and obligations.

Patron education has been identified as a category for which Government funding will be made available. The Government will be working with precinct liquor accords to identify how they can best implement appropriate patron education initiatives that could qualify for funding. Some good work has already been undertaken by local liquor accords in recent years. A number of accords have implemented patron education initiatives to support the responsible service and consumption of alcohol requirements of the liquor laws. Precinct liquor accords will be able to build upon this work to support education about the consequences of irresponsible consumption and behaviour by patrons. Those consequences can be serious.

The implementation of Hassle Free Nights will be overseen by the Alcohol Implementation Team, which is chaired by the Director General of Communities New South Wales. This team includes senior representatives from Communities New South Wales, the New South Wales Police Force, the Department of Premier and Cabinet and the Department of Justice and Attorney General. The Alcohol Implementation Team is responsible for advising the Government on progress with these initiatives. This ensures that ongoing specialist advice is provided to Government. I commend the bill to the House.

The Hon. RICK COLLESS [5.44 p.m.]: At the outset I state that the Liberal-Nationals will not oppose the legislation. Essentially the legislation stems from the Premier, Kristina Keneally, introducing the Government's $4 million liquor action plan, Hassle Free Nights. The plan will be trialled over a period of 12 months and a report of the trial's findings will be produced. Essentially, the plan will be trialled in five precincts that will include the Sydney central business district encompassing Kings Cross, Oxford Street, George Street and The Rocks; Newcastle-Hamilton; Manly; Wollongong; and Parramatta.

The main purpose of the bill is to provide for the establishment and implementation of two types of liquor accords: precinct liquor accords will be ongoing accords that cover an area, and community event liquor

accords, which are temporary accords, will be spread across more than one area. Both accords will be controlled and enforced by the Director General of Communities. Precinct liquor accords will be enforced in the five precincts to which I have referred. Community event liquor accords will come into action during specific events, such as the Sydney Mardi Gras and New Year's Eve celebrations.

The bill enables the director general to impose certain licence conditions requiring licensees to participate in a precinct or community event liquor accord. The director general, along with organisations and people such as the licensee to which an accord applies, the local council, surrounding business owners within the precinct, the Commissioner of Police and community representatives, will be able to play a role in the development of the conditions of the accords. The measures that can be included within accords may include but are not limited to ceasing the serving of liquor during specified terms in an accord, maintaining an incident register, restricting the use of glass containers as currently occurs, installing and operating closed-circuit television or any other security device on licensed premises, and providing security staff in and around the premises.

Licensees who are under precinct accords must contribute towards the operational costs of the accord. A $1 million Precinct Liquor Accord Fund has been established to provide matching funding for local initiatives. There will be a fine of up to $5,500 for non-compliance. Police officers and local council employees have the power to confiscate alcohol from people drinking in a public place within an area to which a precinct or community event accord applies. Although, as I have mentioned previously, the Coalition will support the bill, it is worth stating for the record that this bill represents more of the same from the Government. The Government is targeting venues because essentially they are the easiest targets—the low-hanging fruit, so to speak. Nothing in the bill refers to personal responsibility or any serious commitment to generating long-term change in drinking habits of a minority of the population. Having said that, I reiterate that the Coalition regards the bill as being a step in the right direction. The Liberal-Nationals will not oppose the legislation.

Reverend the Hon. FRED NILE [5.48 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the Liquor Legislation Amendment Bill 2010. The object of the bill is to give effect to certain measures set out in the Government's action plan, Hassle Free Nights. To effect implementation of that plan, the bill provides for the establishment and implementation of precinct liquor accords that will operate on an ongoing basis in precincts designated by the Director General of Communities New South Wales and community event liquor accords, which will operate on a temporary basis in relation to community events also designated by the director general. The bill will enable any such liquor accords to include measures to minimise or prevent alcohol-related violence or harm in, or to protect and support the good order or amenity of, the precinct or area to which a liquor accord applies.

The bill will also enable the director general to impose licence conditions requiring licensees to participate in a precinct or community event liquor accord. In the case of a precinct liquor accord, the bill also enables the director general to require licensees to pay a contribution towards the costs associated with the operation of the accord. These are important provisions in the bill. One serious social problem we face in New South Wales, especially in Sydney and other regional centres, is increasing alcohol-fuelled violence particularly from midnight through to 3.00 a.m. I believe that liquor establishments are allowed to operate for too many hours and too late at night, and that that leads to people consuming too much liquor and getting involved in mob fights that often become violent and the police have great trouble breaking them up. The Government has been using the words "hassle free". It is more than a hassle. Some of these confrontations become fights between gangs, which become more than hassles; they become very bloody and people are seriously injured. I note that some measures in country areas such as Newcastle have resulted in a dramatic decrease in violence. The fewer number of people going into hospital emergency departments has shown this.

If we want only one reason—and there are many reasons—for this bill, it will reduce the pressure on our hospital emergency departments. Staff in emergency departments have to pick up the pieces and deal with injured individuals. In some cases the individuals are innocent people who got caught up in the violence; in other cases the injured persons carried out the violence. I am pleased to support the bill. I note that the Commissioner of Police, Andrew Scipione, has been speaking out strongly on this matter and has committed the New South Wales Police Force to totally support the accords. Indeed, during recent events when 1,000 police were mobilised on the streets of Sydney to counteract liquor-fuelled violence there was a definite reduction in patients going to emergency departments in Sydney hospitals. It was remarkable. Indeed, hospital staff were surprised by how quiet it was in the emergency departments. They were not worried about the quietness; I am sure they would rather have quiet than have people coming in with broken limbs and cut faces as a result of glassing. I am pleased to support this bill.

Reverend the Hon. Dr GORDON MOYES [5.52 p.m.]: I speak on behalf of Family First on the Liquor Legislation Amendment Bill 2010, the object of which is to give effect to certain measures set out in the Government's action plan entitled "Hassle Free Nights". The bill provides for the establishment and implementation of precinct liquor accords and community event liquor accords. These accords enable measures to minimise, or ideally prevent, alcohol-related violence or to protect the good order and amenities of the area in which the accord applies. The bill enables the director general to impose licence conditions requiring licensees to participate in an accord and, in the case of a precinct liquor accord, to require licensees to pay contributions towards the costs associated with the operation of the accord.

The bill enables the director general to impose licence conditions affecting the trading hours on any licensed premises. It extends for a further 12 months the freeze on the granting of liquor licences and various other liquor-related authorisations and developmental consents in relation to certain premises in central Sydney. It enables police officers and local council employees authorised by the Commissioner of Police to confiscate alcohol from people who are drinking in public places that are situated in the area and in which the drinking of alcohol is prohibited by a local council. There was a letter to the editor of the *Sydney Morning Herald* last week from a couple who had just returned to New South Wales from an holiday in Italy. In their letter they expressed their amazement at being out in public in central Rome late on a Saturday night, after midnight, without observing anyone lurching about drunk, brawling or vomiting, as was the usual behaviour they saw when they were back home in Sydney.

They had not realised what was the norm for the self-respecting and the responsible use of alcohol in the rest of the world until they were lucky enough to travel overseas and see it for themselves. They pointed out in their letter to the *Sydney Morning Herald* that, interestingly, access to alcohol is even easier in Rome than it is in Sydney. They explained that Romans can buy alcohol in every supermarket and they are able to drink until the middle of the night in hotels. The difference is not in the availability of alcohol but in the cultural norms surrounding its use in Australia and Italy. Apparently, many Australians accept that drunkenness and the resulting public disorder, binge drinking and violence are the norm until they travel overseas and observe other sensible drinking behaviours.

But not everyone travels, not everyone observes responsible behaviour and not many people bring those behaviours back home. In other words, it is our society's long-established attitudes and continuing behaviour that are the real basis for the current social problems, not the existence of the availability of alcohol. However, it is notoriously difficult to change cultural norms. Sydney has had 200 years of being a rum colony, so we must do the second-best thing and make changes where we can; we must curb the availability of alcohol to those of our citizens who are unable to restrict themselves with internal controls. The statistics are nauseating: apparently one in four teenagers across Australia has been hospitalised as the result of an alcohol-related incident, being either the culprit or the victim.

The breakdown of our society has gone so far that alcohol-related bashings, glassings and murders are not unusual; they are now just part of the regular news. The senseless beating to death of hapless strangers, the stomped heads of innocent people walking home after work or a birthday party, the unrecognisably mutilated face of the Irish backpacker who will never recover full brain function—what kind of savagery is this? And why are we not calling it what it is: a state of emergency due to the violence of some of our citizens? Precinct and area liquor accords are externally imposed restrictions on a segment of the population that has shown to be unable and unwilling to summon the self-control to restrict themselves. I feel that public drunkenness and misbehaviour should not be tolerated anywhere, not just in these specified areas with the accords. But these specified areas have been chosen because of the high incidence of violence over a long period.

Even going so far as to install cameras on every corner will not help if this behaviour is the standard that our society simply accepts. While we are discussing the problem, why should we not seriously consider raising the drinking age to 21, as it is in many other parts of the world such as the United States of America? Enough research has already established that younger brains are too immature to handle alcohol properly, and in addition are seriously stunted by it. Such age limits work elsewhere, where they are appropriately enforced. Why not here? Elements in our society that demand 24-hour-a-day access to alcohol for anyone who wants it are not concerned about people's welfare. Who really needs another drink at 2.00 a.m., 3.00 a.m., or 4.00 a.m.? Giving alcohol to people who have nothing better to do with their time than pickle their brains is idiocy.

These people are the very persons who have no self-control when they finally leave the premises, who are quick to be offended, and quick to use weapons, their boots or smashed glass. Is the right of drunks to order another drink, or the right of hotels to sell it, a higher priority than the civil rights and safety of innocent

non-drinking people on their way home from a concert or their jobs who will later be set upon? This legislation is necessary for the protection of courteous, law-abiding, ordinary people of the community who deserve better than being the hapless victims of this uncontrolled element of our society time and time again. For that reason Family First supports this bill.

The Hon. GREG DONNELLY [6.00 p.m.]: I support the Liquor Legislation Amendment Bill 2010. In March 2010 the Government released Hassle Free Nights, a comprehensive package of measures to further reduce alcohol-related violence and anti-social behaviour in key entertainment precincts. The measures will help to ensure those precincts are vibrant places where nights out are safe and enjoyable for everyone. They build upon other action that the Government has taken on alcohol-related violence and anti-social behaviour in recent years. The Government has developed a very comprehensive approach in dealing with this issue. A lot of work has been done, including enhanced enforcement powers and responsible drinking provisions in the new Liquor Act, a freeze on new 24hour liquor licences, additional licence conditions on the State's most violent venues, a freeze on new, high-risk liquor licensing applications in the southern Sydney central business district and nearby areas, strengthening enforcement powers in alcohol-free zones, and establishing the Sydney Liquor Taskforce and the Manly Community Safety Partnership as well as Crime Prevention Partnerships across the State.

Crime data indicates that those initiatives are having an effect. Assault rates are down and glassings have reduced significantly. Hassle Free Nights is the next step in ensuring safe nights out in popular entertainment precincts. It is a comprehensive whole-of-government approach to the issue of alcohol-related violence and antisocial behaviour. The Hassle Free Nights Action Plan takes a new precinct-wide approach to deal with alcohol-related violence in five locations in New South Wales. This approach will enable strategies to target a defined precinct. Solutions can be tailored to meet the specific needs of that local area. It also allows the trialling of initiatives in defined areas to test their effectiveness and assess the appropriateness of extending these initiatives more widely.

The five precinct areas are the Sydney central business district and surrounding areas, Manly, Newcastle-Hamilton, Wollongong and Parramatta. Those precincts are popular entertainment areas containing a range of licensed premises. But they also have significant levels of alcohol-related violence or other antisocial behaviour. The precincts have been targeted to ensure they can continue to thrive as important entertainment areas where people feel safe and secure. I welcome the establishment of a precinct liquor accord in each of those precincts. Licensees of late trading licensed venues, local councils, State Government agency representatives, other late trading business operators and community representatives will develop a plan for each precinct.

Once established an accord can make a request for a grant from the Precinct Liquor Accord Fund to fund initiatives developed as part of the accord's terms. An amount of $1 million is available in the fund to assist in implementing initiatives that are developed by accords. Provision of funding will be contingent on licensed venues contributing to proposed projects on a 50:50 basis. Every initiative must have an evaluation model built in before funding will be granted. That ensures that there will be evidence available for each project to determine its effectiveness, and provide guidance as to whether the project could be implemented in other locations in New South Wales. To complement the precinct liquor accord process Hassle Free Nights also sets out a range of other initiatives that governments will implement across the five precincts.

With effective transport, we are ensuring that transport services are available to help move people out of entertainment precincts late at night as a key issue in improving safety and security within those precincts. Getting home safely and quickly reduces the potential for people to congregate, which can lead to conflict especially where people have been drinking. New late night bus services are a key component of the Hassle Free Nights plan. New secure taxi ranks are being introduced in Darling Harbour, World Square, The Rocks, Newcastle, Hamilton, Wollongong and Parramatta. There is also increased promotion of late night transport services on the Transport Infoline website. Information will be provided to licensed venues about how hire cars can be engaged for patrons as another transport option. And the New South Wales Taxi Council secure taxi voucher system will also be promoted in licensed venues.

The Government also will be working with local councils and local businesses in precinct areas to implement a footpath strategy. This will involve the development of initiatives to help reduce footpath congestion in critical areas and address the negative impacts this congestion can have. Reducing potential points of conflict on congested footpaths, improving management of congested areas particularly outside licensed premises and improving pedestrian movement in precinct areas are key issues that will be considered. It is important that regulatory tools can effectively manage the operation of licensed venues, particularly where

issues such as trading hours are associated with problems in an area. That is why I support the changes in this bill to the powers of the Director General of Communities NSW to regulate trading hours. Those changes were foreshadowed in Hassle Free Nights when it was first announced.

This amendment will ensure that timely action can be taken in regard to venue trading hours. Variations to trading hours can be a powerful tool in reducing the risk of alcohol-related violence in a local area. Trading hour issues will be able to be dealt with on a case-by-case basis to ensure effective action is taken where necessary. There are a number of special events across New South Wales every year and the legislation contains special provisions. Examples include the New Years Eve fireworks on Sydney Harbour and the Bathurst car races in October. Those types of events are important in supporting social opportunities and local economies. They often bring large numbers of people into an area to celebrate and enjoy the festivities and entertainment on offer. However, while the presence of large numbers of people at these events helps to create a very special and exciting atmosphere, it can also increase the risk of violence and antisocial behaviour if people are consuming alcohol.

All stakeholders need to work together during special events to ensure the best outcomes through responsible management. This is important not only for the event itself but also for licensed premises and other businesses in the area. As part of the precinct approach that is central to the Hassle Free Nights Action Plan it is proposed to create community event liquor accords in identified areas where they may be needed. This will facilitate a coordinated approach to dealing with the health and safety of participants and the management of crowd behaviour. This will provide for the creation of community event liquor accords whereby late trading and potentially other licensees in areas covered by these accords will be required, through a licence condition, to participate.

These accords will facilitate coordinated management of licensed premises in key special event areas. They also will enable information on issues such as responsible drinking and behaviour to be provided to those attending events to ensure that all people are aware of their rights and responsibilities. Experience indicates that the consumption of alcohol in karaoke bars is associated with an increased risk of alcohol-related violence.

The Hon. Rick Colless: Grab that microphone, Greg.

The Hon. GREG DONNELLY: Yes. I understand that the Hon. Rick Colless is a regular frequenter of karaoke bars. I might have more to say about that later when I deal with party boats. This appears to be due to poor responsible service of alcohol practices and non-compliance with the liquor laws and other conditions by some karaoke operators. To manage and minimise this risk the Government will work with police and local councils to ensure that karaoke bars are complying with liquor laws and other conditions, including responsible service of alcohol requirements. The Government also will work to ensure all karaoke bars are subject to appropriate liquor licence conditions and that planning requirements are in place that take into account the activities and operations of karaoke bars.

Excessive drinking on party boats can lead to safety concerns. It can be particularly problematic when intoxicated patrons disembark. Recently the media reported such an incident on Sydney Harbour. While existing legislation applies to party boats, as part of the precinct-wide management of alcohol-related issues, further management of these boats is required. That is why a Joint Marine Industry Compliance and Safety Team will be established to enforce compliance with licensing, commercial survey, occupational health and safety, food preparation and storage requirements. A code of conduct for party boats also will be developed to set out agreed practices for party boats operating on Sydney Harbour. Issues to be addressed in the code include the conduct of passengers on vessels and at embarkation and disembarkations points and the responsible service of alcohol.

I will briefly touch upon a number of other initiatives in Hassle Free Nights. New South Wales Police and Communities NSW will work closely together, share information and coordinate their enforcement actions. Those agencies will work with licensed venues to identify effective measures that promote community safety and good management. Training programs for bar staff and security guards will include training in negotiation and de-escalation of emotionally charged situations to assist in reducing the risk of moments of conflict ending in violence. Regulators' knowledge of the hospitality industry also will be incorporated into training programs.

An on-line forum discussing ways to stop parties from getting out of control was conducted from 3 May until 24 May and was very successful. Comments made during the forum will inform the development of practical measures that can be taken to deal with this issue. Research will be undertaken into sustainable levels

of density of licensed venues. This will provide an evidence base to make licensing and enforcement decisions. It will also inform future decisions in relation to the liquor licence freeze beyond the current extension provided for in the bill.

An important component of the Hassle Free Nights action plan is to ensure effective evaluation of all of the initiatives and to provide a report back to the community. Most of the initiatives are running for a period of time in a distinct precinct area and consideration will be given to their success and whether they should be continued and/or expanded across other areas of New South Wales. The Hassle Free Nights Action Plan covers a range of areas where alcohol-related violence can impact on people's lives. It implements effective tools to manage venue operation, patron behaviour, local amenity and pedestrian movement within precincts as well as into and out of precincts. The measures to be implemented will provide evidence for future action in effectively dealing with alcohol-related violence and antisocial behaviour issues, helping to ensure responsible licensed premises and the provision of cost-effective and appropriate government services.

The Liquor Legislation Amendment Bill 2010 supports many of the measures in the Hassle Free Nights Action Plan and will assist the Government in effectively achieving those measures. Alcohol-related violence and antisocial behaviour is of considerable concern to the community and effectively designed action is needed. The trialling and evaluation of the Hassle Free Nights approach will provide a wealth of evidence on what works in a variety of different locations. It will ensure that New South Wales continues to be at the forefront of addressing alcohol-related harm in local communities. I support the bill.

Ms LEE RHIANNON [6.12 p.m.]: The Greens do not oppose the bill, but I would like to emphasise that a lot more needs to be done in terms of managing alcohol use than having hassle-free evenings. Clearly there needs to be a reshaping of Australia's drinking culture to produce healthier and safer outcomes and healthier and safer communities—everything from advertising bans and drink-driving mass media campaigns to possibly more random breath testing. There is also the critical issue of how taxation is used to ensure the development of safer and healthier communities in the context of alcohol consumption.

I think it is worth reminding members why this is needed. There is a real urgency, not just because of the examples that were given in terms of unpleasant late nights for some people, but also in terms of a whole range of costs to our communities. In 2004-05 alcohol contributed to a staggering 3,494 premature deaths according to a study that can be found at *www.drinkwise.com.au*, which looked at social costs of alcohol abuse in Australia. On the issue of road safety—and I was staggered by these figures—drink-driving is a factor in about one in every five crashes in New South Wales in which someone loses his or her life. We are reminded of the toll that it is taking on young men in our society by a further alarming finding: of those killed, 88 per cent are males and 75 per cent are males under the age of 40 years.

The police have undertaken some very useful work. The community issues section of the website of NSW Police notes that, in Australia, alcohol is a key factor in the three leading causes of death among adolescents: unintentional injury, homicide and suicide. How troubling is that? The Federal Department of Health has looked at many aspects of this and part of its study covers the workplace, where there is a massive loss of productivity and cost to the business community. Alcohol abuse runs up big costs with regard to labour in the workforce. The Federal Department of Health has estimated that $367.9 million is lost in production costs because of alcohol abuse. According the a 2007 report of the New South Wales Bureau of Crime Statistics and Research, NSW Police spends at least $50 million a year responding to alcohol-related crime.

Given the strong law and order theme run by both Labor and the Coalition, I should have thought that by now a more comprehensive program would have come from the Government on how to deal with this complexity. The standout requirement is for the Government to be willing to look at introducing tax reform on alcohol. There is very clear evidence that taxation on alcohol can bring about real differences. It is worth noting that taxation levels in Australia are very low compared with those of a large number countries belonging to the Organisation for European Economic Co-operation [OECD].

I have had very informative discussions with Dr Alex Wodak about this matter. Taxation levels do not need to rise by an enormous amount for our society to reap benefits. It is quite clear that alcohol taxation policies are the responsibility of Treasury. I was interested to find—and we are endeavouring to get more work done on this—that cask wine, in particular, remains taxed at a very low level because it is manufactured in marginal seats. I want to explore that assertion further. There are interesting sociological and historical reasons that govern some taxation rates, but I would put to members that a major factor is the dominance and strength of the hotel industry. I have spoken before in this House about hefty political donations made by the Australian

Hotels Association and many hotels. That is not a healthy factor for our democratic process because clearly the alcohol industry has powerful political connections, and that may explain why there has been so little movement in taxation reform as it relates to the use of alcohol.

I urge members to become more informed about this critical aspect. Considerable advice relating to taxation reform is beginning to favour volumetric alcohol taxation, which is putting the tax on the amount of alcohol in a drink rather than according to the form in which the alcohol is delivered. I have to concede, however, that anyone attempting to take on the issue of alcohol consumption is a bit like David taking on Goliath: it is a pretty difficult task getting the industry to shift. Sometimes such measures are somewhat superficial and we need to move in a more substantial way.

Some of the comments from the Alcohol Education and Rehabilitation Foundation with regard to the Henry tax review are worth noting. My guess is that many members are not aware that that review covered alcohol-related issues as it is one area that has not been picked up. The foundation director, David Crosbie, commented that the foundation had criticised the Federal Government for overlooking "the enormous social and economic costs posed by alcohol abuse", which was highlighted in the Henry tax review. Mr Crosbie continued:

> Alcohol abuse is second only to smoking in the number of preventable deaths caused by substance misuse …

He nominated that alcohol abuse costs the economy more than $15 billion each year. Alcohol taxation reform has been taken off the agenda despite its being one of the Government's stated priorities for preventative health. Mr Crosbie went on to state:

> The Henry review had recommended a volumetric tax on all forms of alcohol, saying social costs of alcohol abuse were not effectively targeted by current tax and subsidy arrangements.
>
> In over 50 peer reviewed studies around the world, taxation and price increases have been proven to lower consumption rates.

So, we need to deal with Hassle Free Nights. People have a right to enjoy alcohol but they need to do it in a way that ensures healthy and safe communities. Clearly the evidence is there in terms of the important role taxation can play, and it is time that Federal and State governments paid attention to this important advice coming from experts in the field. We often talk in this House about the need for harmonisation of critical laws that affect the whole country. This is certainly an area of law that is crying out for such harmonisation and for some governments to give a lead in relation to it.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.20 p.m.], in reply: I thank honourable members for their contributions to the debate. The Government has a strong record in taking action to address the problems of alcohol-related violence and antisocial behaviour. The amendments in the bill build on that record. They are a key component of the Government's plan to address the causes of alcohol-related violence and antisocial behaviour in popular entertainment precincts. The amendments will play a significant role in helping to protect and support the good order and amenity of those precincts through a focus on early intervention. Measures in the bill also will help to ensure significant community events are safer and that regulatory tools are responsive where there are problems associated with the operation of late trading licensed venues in New South Wales. 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.

[*Deputy-President (The Hon. Christine Robertson) left the chair at 6.22 p.m. The House resumed at 8.00 p.m.*]

THREATENED SPECIES CONSERVATION AMENDMENT (BIODIVERSITY CERTIFICATION) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.00 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 the second reading speech incorporated in *Hansard*.

Leave granted.

Biodiversity Certification became law in 2004. It establishes a process to assess the environmental impacts of future development at the strategic planning stage. If proposed conservation measures will equal or exceed the impacts of proposed development, resulting in improvement or maintenance of biodiversity values overall, the Minister may grant certification to areas of land. That removes the need for supplementary site-by-site reassessment.

First and foremost this bill establishes greater legal certainty for biodiversity certification decisions. The existing legislation is deficient in that it does not define "improve or maintain biodiversity values." This bill clearly defines this term.

It does more than that. This bill delivers better environmental outcomes, ensures decisions are objective, reduces administrative processes and achieves real cost savings.

Consider this. If the scheme provided for in this bill had been used in the North Kellyville precinct of the Sydney Growth Centres, it would have:

- replaced 272 assessment reports with one assessment;
- saved $2.6 million in assessment costs—a saving of around $3,700 per hectare of land; and
- improved housing affordability by an estimated $300 per dwelling.

Further, consideration at the strategic level opens up the opportunity for greatly improved environmental outcomes.

The central elements of the bill are much stronger provisions for ensuring that conservation outcomes will be delivered as development proceeds, and a requirement to use a transparent and repeatable methodology when certifications decisions are made. A draft of that methodology is available for consideration and public comment.

More specifically, the bill:

- **Provides for the certification of land** instead of environmental planning instruments. This ensures that the benefits of certification are recognised regardless of which planning controls apply, or if multiple planning controls apply.
- **Clarifies the process** of making an application for biodiversity certification. Only planning authorities will be able to make an application. An application must be exhibited and accompanied by a biodiversity certification strategy.
- **Improves enforcement and compliance**. Currently, the only action that can be undertaken to rectify a breach of a condition of certification is to revoke or suspend the certification. The bill provides a more flexible range of compliance mechanisms that allow a more targeted response to problems, should they arise. These include:
  - Ordering a party to carry out specified work or other actions they previously agreed to perform
  - Modifying either the description of the certified land or the approved measures under the certification
  - Suspending or revoking certification
- **Cuts-red tape**. For example:
  - The effect of biodiversity certification will be extended to include projects determined under Part 3A of the Environmental Planning and Assessment Act.
  - Lands that have been certified will be excluded from the operation of the Native Vegetation Act.
  - Site-by-site development assessment will not be required.
  - A sound platform for pursuing strategic assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act is established.

- **Lists** the conservation measures that may be used. These include, reservation of land under the National Parks and Wildlife Act, planning agreements, conservation and BioBanking agreements, plans of management, the purchase and retirement of biodiversity credits, and development controls.

- **Creates** a new type of agreement. Voluntary biodiversity certification agreements will be available to secure conservation measures when third parties may be involved—for example, agreements for future transfer lands or for financial contributions to enable the future delivery of offsets.

This bill will deliver better environmental outcomes when new urban development occurs, at lower cost.

I commend the bill to the House.

The Hon. CATHERINE CUSACK [8.01 p.m.]: The purpose of the Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 is to establish an improved new mechanism for biodiversity certification of land. The current requirement for, and process of, biodiversity certification was introduced by 2004 amendments to the Threatened Species Conservation Act 1995. Division 5 of the Threatened Species Conservation Act confers upon the Minister for Climate Change and the Environment the authority to grant biodiversity certification to environmental planning instruments if the Minister is satisfied that the instruments will lead to the maintenance or improvement of biodiversity outcomes. Certification is for a maximum of 10 years and may be revoked under certain circumstances.

Following biodiversity certification of the planning instrument, development undertaken under the provisions of parts 4 and 5 of the Environmental Planning and Assessment Act does not require further threatened species assessment. However, development undertaken under the provisions of part 3A still requires further assessment. The Government advised that biodiversity certification would occur mainly in green fields development sites on urban fringes and in the coastal zones. These landscapes generally will be characterised by a single landholder or a small number of large landholders. To date certification has been granted only to the State environmental planning policy [SEPP] for Sydney region growth centres, that is, north-western and south-western Sydney. In this case the applicant was the Department of Planning.

In 2008 this certification was challenged by the Environmental Defender's Office on behalf of the coalition of conservation groups under the banner True Conservation Association. The basis of the challenge was that the Minister had no rational basis for concluding that the SEPP would maintain or improve biodiversity. The Parliament enacted legislation—the Threatened Species Conservation (Special Provisions) Act 2008—to confirm the biodiversity certification of the Sydney region growth centres SEPP. The Liberal-Nationals Coalition opposed the legislation on the basis that only 50 per cent of native vegetation would be protected and cost shifting to local government would occur. We also questioned the area of land to be protected for biodiversity purposes. There will be resultant cost increase for home buyers and the conferring of broad ministerial powers without adequate checks and balances.

We strongly disagreed with the tactic of the Government in rushing through legislation to avoid a policy being struck down in court. We regret that the terms of the Government's agreement with itself, granted under the growth centres certification, has resulted in offsets for destroying endangered Cumberland forest that is located outside the western Sydney growth region. This continues to be a highly contentious issue. I am extremely doubtful about the accountability arrangements for the Department of Environment, Climate Change and Water, which is administering the $500 million offset plan through the Environment Trust.

Mr Ian Cohen: Why don't you vote against it?

The Hon. CATHERINE CUSACK: We did vote against it.

Mr Ian Cohen: No, why don't you vote against it?

The Hon. CATHERINE CUSACK: We voted against the amendments that implemented those things. On 20 May Minister Sartor introduced the Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 in the Legislative Assembly. The key changes in this bill are that biodiversity certification is granted to land rather than to planning instruments and, accordingly, a biodiversity certification agreement is registered on the land title. This improvement is particularly welcome and has the strong support of conservationists as it anchors protection to the land itself rather than to a planning instrument. Other key changes include the requirement of a biodiversity strategy to identify the land proposed for certification, land proposed for conservation, proposed conservation activities, and bodies responsible for implementing the conservation activities.

The bill will create a biodiversity certification assessment methodology that will assess the loss of biodiversity values on land proposed for certification and the impact of proposed conservation activities on the land. The purpose of the methodology is to provide a transparent and consistent approach, while increasing the objectivity and legal certainty of certification. This methodology, a scientific methodology, has been the subject of considerable consultation. Obviously, the methodology is critical to the credibility of this bill. The assessment methodology was developed by the Department of Environment, Climate Change and Water and by members of the Ecological Consultants Association and at present is on public exhibition. Changes may be made to the assessment methodology by notice in the *Government Gazette* following the prescribed process, which also includes public consultation.

The Government has advised that provision also is being made for the accreditation of the assessors, which I believe to be an important measure to ensure the integrity of the process. The bill identifies a raft of conservation measures that can be used in certification, including development controls, certification agreements, State infrastructure contributions, biobanking agreements, and preservation of land as open spaces and national parks. The main impact of the legislation is to bring the assessment of biodiversity to the forefront of the development process. This will allow for assessment to occur over a wider area—a landscape area in fact—thus allowing strategic management of biodiversity. It also eliminates the requirement for an assessment to be done for each development in the subject area.

The department's research indicates that the proposed biodiversity certification process would result in an $11,000 saving per hectare of vegetated land assessed. In the area of biodiversity protection, the Department of Environment, Climate Change and Water advised that, based on trials of the new biodiversity certification methodology at Wyong and Warnervale new town centre, the methodology achieved the same level of protection at the same level, or at a slightly lower level, of costs. In addition, the reporting requirements of the bill are harmonious with the requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999, thus eliminating an additional reporting regime for areas of national and international biodiversity significance.

As noted above, the bill confers the certification to the land rather than a planning instrument. The bill makes consequential changes to the Threatened Species Conservation Act to reflect this change. The bill eliminates any residual legal uncertainty of the biodiversity certification process resulting from the 2008 legal challenge and expands the provision of the Threatened Species Conservation Act to explicitly cover developments undertaken under part 3A of the Environmental Planning and Assessment Act—that is, bringing such developments into line with developments made under parts 4 and 5 of the Act. It is important to remember that applications for biodiversity certification are made by planning authorities and not by individual developers. These planning authorities might include a local council or the Department of Planning, as happened with the western Sydney growth centres.

The bill grants the Minister greater powers to manage any breach of the biodiversity certification agreement. Currently the only tools at the Minister's disposal are revocation or suspension. The bill will expand those to include power to modify the certification, a capacity to issue orders to comply with certification under pain of a penalty, and to seek remedy or restraint in the Land and Environment Court if a landowner is in breach of the certification agreements. No doubt this bill reduces red tape and secures greater protection for land that is the subject of an agreement. It has the support of all the key stakeholders and is not opposed by the Liberals and The Nationals. We have some reservations about the degree of power it confers on the Minister for the Environment. There are stronger accountability measures in advising the public and enabling them to provide input but, ultimately, the momentous decision to turn off native vegetation and threatened species legislation is in the hands of one person, and it is an enormous responsibility with irreversible impacts.

Having said that, I understand and support the need to protect larger tracts of habitat to establish connectivity of protected areas. This legislation is a positive way forward for managing those outcomes on private land. For those in the community who do not have a masters degree in planning or the environment and who are concerned to protect a very much-loved patch of native vegetation that is not subject to protection, the process of biodiversity certification is confronting, complex and incomprehensible, especially when trying to understand the loss of this apparently valuable habitat in their neighbourhood. I suggest that the Government needs to achieve very high standards of consultation and information to ensure such people are not railroaded or disempowered in the process and are able to understand the benefits of certification whilst such an agreement is being implemented.

The Hon. TONY CATANZARITI [8.12 p.m.]: The Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 has been designed to deliver a better framework for biodiversity

certification. It seeks to provide legal certainty to an innovative mechanism for conserving biodiversity within a landscape context. In introducing the bill the Government acknowledges the need for legislative amendment that has arisen following a challenge to the biodiversity certification of State Environmental Planning Policy (Sydney Region Grown Centres) 2006. All too often we find ourselves in a divisive debate about species conservation and economic development, and whether the legislation is detrimental to the taxpayer or landholder. For example, the green and golden bell frog, a State and Federally listed threatened species, has become a symbol of Sydney Olympic Park, gaining international and local support. However, in the development industry there is apathy towards threatened species.

Often species are perceived as an impediment to development and economic investment. It is a similar story with many other threatened species and ecological communities across New South Wales. In simple terms, the biodiversity certification is the process of identifying and protecting areas of high biodiversity value, accepting some impacts on biodiversity where they are considered essential to deliver social and economic benefits such as homes and jobs, then offsetting the unavoidable impacts through secure and credible mechanisms such as the reservation and improvement of land under the National Parks and Wildlife Act or biobanking. The new operating framework will assist local councils and other planning authorities to develop strategic approaches to conserve biodiversity.

The benefits of certification mean that these decisions are made early and transparently. At the scale where genuine benefits can be realised, these benefits are stronger, have more strategic conservation outcomes and remove unnecessary red tape. The bill provides legal certainty to the process of deciding whether an application for biodiversity certification will improve or maintain biodiversity values by requiring decisions to conform to an assessment methodology. Under the bill the Minister's decision to confer certification must conform to codified rules contained within the assessment methodology. To meet the improved or maintained standard the assessment methodology requires that red flag areas—areas of particularly high biodiversity conservation value—must not be directly impacted. All acceptable impacts on biodiversity values, including indirect impacts, are offset in full through improving biodiversity values on land in other locations.

As indicated in the agreement in principle speech, State infrastructure contributions may be used to fund biodiversity offsets. Moneys collected and expended under the levy scheme will be directed to securing the required environmental outcomes. The list of conservation measures that will contribute to improving or maintaining biodiversity values is broad and includes reservation of land under the National Parks and Wildlife Act, planning agreements, conservation agreements, trust agreements, biobanking agreements, biodiversity certification agreements, plans of management, the acquisition or retirement of biodiversity credits and development controls.

The bill includes appropriate cost recovery provisions, including an ability for planning authorities to recover costs associated with preparing an application. This is a reasonable approach through which overall costs for landowners, developers and ratepayers will be reduced. These provisions ensure that, where appropriate, developers and landowners who enjoy the benefits of biodiversity certification contribute fairly. The bill will provide stronger safeguards to rectify a breach of certification and any associated agreement. Further, the bill will create a new form of agreement—a biodiversity certification agreement. The purpose of this agreement is to formalise arrangements between the Minister and any person, including a planning authority, responsible for delivering a conservation measure.

To ensure transparency the bill and associated regulation will include public input at various stages, including development of the assessment methodology and exhibition of an application for biodiversity certification. The bill requires also that orders conferring biodiversity certification be published in the *Government Gazette* and that a public register be kept of all orders, including the details of any modifications, suspensions and revocations. The new legislative framework also will provide a platform for pursuing strategic assessments under the Commonwealth Environment Protection and Biodiversity Conservation Act, streamlining the assessment processes of both New South Wales and Commonwealth environmental legislation and, in turn, saving time and money and encouraging economic investment in New South Wales.

I hope members will allow me to give some real world examples of benefits of the provisions in this bill. In March this year the Department of Environment, Climate Change and Water trialled the methodology on the Wyong employment zone and Warnervale town centre developments. The trials showed that biodiversity certification can protect biodiversity in strategic locations in a cost-effective way. Biodiversity certification proposals were prepared for the sites in 2007-08 but they were not progressed because of uncertainty created by

the legal challenge to the Sydney growth centres certification. The Wyong Shire Council is now eager to pursue biodiversity certification for both proposals, and I believe it will do so as soon as the bill is enacted and the methodology is gazetted.

Biodiversity certification is all about achieving a balanced outcome, protecting the best remaining areas of vegetation and securing long-term, well-managed conservation offsets for the unavoidable impacts of urban and industrial growth. I cite another example: If the new system in the bill had been used in the North Kellyville precinct of the Sydney growth centres development it would have replaced 272 assessment reports with one and it would have saved $2.6 million. A final example is a 2003 development application that was submitted to the Blacktown City Council for a 34-lot subdivision. It also involved the dedication to the council of 1.5 hectares of Cumberland Plain woodland for addition to an adjacent council reserve.

Over the next five years the proposal was subject to three appeals to the Land and Environment Court—all of which related to threatened species and endangered ecological communities. The final decision was made in December 2008—more than five years after the development application was lodged. Ultimately the court issued consent based on a largely identical development and consent footprint. This is not an effective decision-making process in anyone's terms. Biodiversity certification addresses this complexity in the current system, providing a no surprise assurance to landholders and developers and reducing red tape while achieving real conservation outcomes. It not only removes the need for individual development applications to be subject to threatened species impact assessment but also clearly sets out the costs that developers are asked to bear to protect priority conservation areas, providing greater up-front certainty.

Under the biodiversity certification framework, the decisions of government will be more transparent and robust. There will be more guidance on the use of conservation-offset measures, stronger enforcement and clearer processes for community engagement. Biodiversity certification can protect biodiversity and build resilient ecosystems, eliminate unnecessary red tape, and facilitate significant land release proposals. It delivers conservation outcomes, not reports and studies. This year, which is the International Year of Biodiversity, we celebrate the value of biodiversity to our lives. It is timely for governments, planners, developers and the general community to better shape the places where we live and work to protect biodiversity for present and future generations. Biodiversity certification is a key tool in the future protection of biodiversity. I commend the bill to the House.

Mr IAN COHEN [8.23 p.m.]: On behalf of the Greens I join in debate on the Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010. At the outset I indicate that the Greens oppose the bill. While listening to the contributions made during the debate I realised that, while not abandoning all hope of persuading members of the inappropriateness of the bill during debate, I certainly will not seek to amend the bill. In consultation with others, I have decided to read onto the record some of the issues in the hope that at some stage people will take stock and perhaps take note of what I am about to say. I think that is preferable to trying to convince the powers that be of the inappropriateness of the bill.

I have listened with interest to previous speakers in the debate, I have noted assertions that have been presented to the House, I have listened to members of the Opposition who now are convinced of the merit of the legislation, whereas previously they were opposed to it, and I am rather sickened by the whole process. For those reasons I will not go into details of amendments in an effort to convince members of the inappropriateness of the legislation; rather, I will simply place on the record the Greens strong opposition to the bill for a number of significant reasons. Foremost among those is that the bill does not represent a conservation strategy and framework with sufficient integrity to secure protection of biodiversity in New South Wales.

Our country's record on flora and fauna conservation is poor. Australia has the worst mammals extinction rates in the world. Twenty-two mammals became extinct in Australia over the past 200 years, which accounts for almost 40 per cent of mammals extinction globally in that period. Australia is not pulling its weight to support the key objectives and obligations of the Convention on Biological Diversity. As recently as this week we saw how our endangered ecological communities and threatened species can be further pushed towards extinction by a scheme that undeniably is malleable and ineffective in protecting biodiversity. I refer to the proposal by The Hills Shire Council to clear 10 hectares of critically endangered Cumberland Plain woodland and endangered shale transition forest and offset that loss with a biobanking agreement.

Under the 2006 environmental assessment of the site on Withers Road, Kellyville, the red flag rule of biobanking methodology would prevent the council from offsetting those 10 hectares through biobanking. More recently The Hills Shire Council has had subsequent ecological assessments carried out on the Withers Road site

that downplayed the presence of endangered flora and fauna and ignored the high conservation value of the area. One also could suggest that the aim of subsequent ecological reports has been to downplay the ecological significance of the site to prevent the triggering of red flag provisions of the biobanking methodology.

The internal desire of the Department of Environment, Climate Change and Water [DECCW] to use the biobanking scheme, which has secured only one biobank—I emphasise "one biobank"—over the past two years, and the ecologist shopping of The Hills Shire Council has blinded everyone to the fact that we should not clear manageable, high-conservation-value endangered ecological communities. That represents an attempt to circumvent the red flag provisions of the methodology and demonstrates the absolute necessity of red flag provisions being clearly spelled out in legislation. I call on members who support the bill and the Minister to reflect on this clear example of how biobanking and biodiversity certification are being manipulated, leaving New South Wales with a net loss of biodiversity.

People should also consider how this could easily happen in other areas such as the Tweed shire, where certain proponents are committed to the clearing of endangered ecological communities. We are currently grappling with challenging policy decisions in relation to population growth, urban development and environmental management. Urban development in Sydney's north-west and south-west growth centres highlights the contest between conflicting policy objectives. Late last year the Department of Environment, Climate Change and Water released the draft New South Wales and National Cumberland Plain Recovery Plan. The draft recovery plan recognises the need to protect endangered ecological communities and threatened species in western Sydney yet proposes an approach that does not deliver the requisite level of certainty in conservation protection.

In conjunction with the draft Cumberland Plain recovery plan and Growth Centres Biodiversity Offset Program of the Department of Environment, Climate Change and Water, urban development in the growth centres currently is undergoing strategic assessment pursuant to the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 to assess the potential impact of urban development on matters of national environmental significance. Biodiversity certification potentially could apply right across New South Wales. Prior to this bill there were moves to certify Albury and Wagga Wagga local environment plans. Excluding the biodiversity certification of the native vegetation reform package, the only environmental planning instrument to receive biodiversity certification is State environmental planning policy—Sydney region growth centres—2006.

The first biodiversity certification of an environmental protection instrument [EPI] in New South Wales resulted in a Land and Environment Court challenge by True Conservation Association Limited. The challenge of the then Minister's biodiversity certification of the Growth Centres SEPP was defeated by the Threatened Species Conservation Amendment (Special Provisions) Bill 2008, which validated the biodiversity certification without it meeting the statutory test of maintaining or improving biodiversity values. Importantly, the Greens, Reverend Gordon Moyes and the Opposition opposed that bill because it was asking the Parliament to validate a decision made by a Minister that did not satisfy the statutory test. To this day the biodiversity certification package does not improve or maintain biodiversity values.

To date, 35.7 hectares of native vegetation have been cleared in the growth centres, with approximately 18 hectares being Cumberland Plain woodland. I draw the attention of members to the first New South Wales Biodiversity Offset Program report, which outlines the fund's first acquisition to offset native vegetation clearing in the growth centres. According to the report, the Commonwealth Government and the New South Wales Government jointly purchased a 181-hectare site at Cranebrook. The report states:

> The property has been purchased for $17.5 million, with two-thirds of this amount coming from an Australian Government Caring for our Country grant. The grant honours a pre-election commitment by the Australian Government to spend up to $15 million to create a new conservation corridor for Western Sydney.

We should note two things here. First, the land was going to be protected under a business-as-usual scenario, which means that there is no additionality to the conservation measure. It is also questionable whether this land could have been used for urban development given its historical uses. This is a clear example of rebranding a planned conservation action as a biodiversity offset. Secondly, the Commonwealth Government provided the majority of funding, not the Biodiversity Offset Fund. The biodiversity fund only provides approximately 16 per cent of acquisition funding, which does not account for the need to offset 35.7 hectares of native vegetation clearing.

Before I turn to the substantive elements of the bill I want to try to dig to the heart of why the Department of Environment, Climate Change and Water and the New South Wales Government believe that

biodiversity certification will improve the current deficiencies in our threatened species legislation. The New South Wales Government argues that the current system of species impact statements for specific, individual sites is like a death by a thousand cuts for biodiversity in New South Wales. The justification for this statement is that in the majority of instances ecologists rarely find species impact when they assess a site subject to a development application. In other words, the ecologists are paid their fee by the proponent and in most instances report no specific impact on threatened species by development of an individual site. Alternatively, an ecological assessment might come to the finding that any remnant native vegetation and species are not of a size and composition that are manageable in an urban environment in the long term.

Even if we accept the critique of the Government and the Opposition of individual site species impact assessment, is biodiversity certification the answer? Are there more effective reforms available to us? If the Government is concerned about the integrity of ecologists' reports, it could adopt an ecological consultant accreditation scheme similar to that which it operates for contaminated land auditors or biobanking assessors. I have personally asked the Minister to consider establishing an accreditation scheme for all environmental and ecological consultants writing environmental assessments [EA] and species impact statements [SIS] in New South Wales. This is a simple reform that will improve environmental and species impact assessment in New South Wales.

Secondly, we could alter the methodology and assessment criteria for species impact assessments and statements. Ecologists could shift their assessment methodology and focus to one that assesses ecological communities and fauna species within a broader landscape system. They could have an expanded mandate to evaluate ecosystem composition, function and structure across multiple land tenures. The assessment could contextualise an individual site's contribution to overall ecosystem composition and structure. These are just some of ways in which we could amend the death-by-a-thousand-cuts approach to biodiversity management without resorting to the use of biodiversity certification. However, I suggest that biodiversity certification is about more than remedying the alleged limitations of site-by-site species impact assessment.

There is another dimension to the implementation of biodiversity certification. I would speculate that the creation of biobanking and biodiversity certification represents Department of Environment, Climate Change and Water's absolute dissatisfaction with the environmental management of the Environmental Planning and Assessment Act part 3A project assessment. Project assessment and enforcement of conditions of consent by the Department of Planning has systematically slipped well below community expectations and concepts of ecological sustainable development. Its underperformance has compromised, and continues to compromise, the long-term prosperity of this State. As a government department, the lack of policy maturity leaves it incapable of balancing the real challenges of our age. Its planning and development principles are dominated by project economics and proponent profit margins. Strategic planning for this State has been hijacked by departmental philosophies that went out of date three decades ago.

Not only have local communities been sidelined by the Department of Planning; other government departments such as the Department of Environment, Climate Change and Water also find that their advice to the Department of Planning and the Minister for Planning falls on deaf ears. The Department of Environment, Climate Change and Water and the Minister for the Environment administer the majority of legislation that is considered in part 3A assessments and director general's requirements. Unfortunately, the department's advice is not adequately integrated into project approval or general development design. Kings Forest in the Tweed shire is a perfect case study of the interdepartmental dynamic that exists between the Department of Planning and the Department of Environment, Climate Change and Water.

Biodiversity certification represents, on a political level, an attempt by the Department of Environment, Climate Change and Water to claw back turf from the Department of Planning. The problem is that in competing with the part 3A planning process for regulatory use and relevance it compromises its substance and process. Why would a major project proponent seek a local council or planning Minister approval to use biodiversity certification agreements or process if the part 3A process was cheaper and easier? It is due to this competition of regulatory pathways that biodiversity certification remains undeniably compromised in its bid to protect biodiversity.

I turn to the substantive provisions of the bill. Biodiversity certification is described as a mechanism to manage flora and fauna at a landscape scale without requiring species impact statements or biodiversity assessments under the Environmental Planning and Assessment Act. The bill allows planning authorities such as local councils or the Minister for Planning to make an application for land to receive biodiversity certification. The Minister for the Environment cannot confer biodiversity certification unless the applicant planning authority

has produced a biodiversity certification strategy. The purpose of the strategy is to require the applicant to set out how it would achieve maintenance or improvement in biodiversity values. The planning authority applicant will be required to outline the conservation measures, as contained in proposed section 126L, that will satisfy the statutory test. To many, this brave new front in conservation sounds Monty Pythonesque, and I believe that is the case.

One notable difference between the existing regime of biodiversity certification under part 7, division 5 of the Act and the regime proposed in this bill is the cessation of certifying environmental planning instruments [EPI] such as state environmental planning policies [SEPP] and local environmental plans [LEP]. The bill instead provides for the biodiversity certification of land of any size, composition and zoning. The move away from certifying EPIs is in part based on the technical difficulty of multiple EPIs applying to one block of land. For example, a particular development within the north-west and south-west growth centres may not be assessable under the Growth Centres SEPP and therefore not technically covered by the biodiversity certification assigned to the state environmental planning policy by the New South Wales Parliament. If a development within the growth centres is assessed pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 or State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 such developers would still need to undertake a species impact statement as those state environmental planning policies do not have biodiversity certification although the land geographically falls within the growth centres.

I suggest that there is an additional dimension to the desire of the Government and the department to move away from biodiversity certification of environmental planning instruments. I am sceptical as to whether biodiversity certification of a local environmental plan would have provided any conservation management benefits. When landcare groups and catchment management authorities talk about landscape-scale ecosystem management, the scale of management would more likely focus on a particular resource system that crosses several boundaries. The concept of landscape-scale biodiversity management inherent in biodiversity certification of local environmental plans substantially expands this more traditional understanding. The scale is substantially more expansive. It is questionable whether managing biodiversity at a local government area scale is possible. Considering that biodiversity certification is already a step into the unknown and that quantifying biodiversity is so far from an exact science, I would suggest the concept of certifying a local environmental plan is not realistic pragmatically or scientifically.

Currently section 126G of the Act requires the Minister to be satisfied that biodiversity certification will lead to the overall improvement or maintenance of biodiversity values. In evaluating whether biodiversity certification achieved the statutory test, the Minister would have to consider principles of ecologically sustainable development, the most efficient and effective use of available resources for the conservation of threatened species, populations, the objects of the Act and the likely social and economic consequences of implementation of the environmental planning instrument. In framing the statutory test, proposed section 126P requires the Minister to form the opinion that biodiversity certification ensures that the overall effect is to improve or maintain biodiversity values.

While not having an argument about semantics I think there is a difference between "biocertification leading to maintenance and improvement of biodiversity values" and "biocertification having an overall effect of improving and maintaining biodiversity values". The Total Environment Centre and the Environmental Defenders' Office have suggested that the change in terminology has occurred to facilitate an increased reliance on financial contributions and offsetting. While I agree with that statement, I also add that it is a further dilution of scheme integrity that is already struggling to demonstrate its ability to protect biodiversity. The lack of integrity is compounded by the refusal to expose the Ministerial discretion to judicial review.

In the Legislative Assembly the member for Pittwater rightly highlighted this element of the bill on behalf of the Opposition. As with so many bills before this House, we are seeing a concentration of executive power without judicial recourse. In the context of an Opposition Leader who unabatedly bemoans Labor ministerial incompetence and calls for an early election, I would have thought the Opposition would actually stand up in this place and reject the centralisation of executive power. Yet time and time again the Opposition happily supports removing judicial oversight of executive power. One minute members of the Opposition slam Labor Ministers for incompetence and stupidity, the next they increase ministerial powers to make decisions affecting communities across New South Wales. In this Parliament that is truly amazing stuff!

Proposed section 126L outlines the accepted measures that would constitute a conservation measure forming part of a biodiversity certification strategy. These proposed conservation measures should be evaluated

in conjunction with chapter seven of the draft biodiversity certification methodology. In order to demonstrate that biodiversity certification is actually improving or maintaining biodiversity values, all conservation measures would logically need to be additional to what is achieved under the status quo. Otherwise we are simply rebadging land. If conservation measures are not additional to the status quo, we will be automatically sustaining a loss of biodiversity values and contravening the statutory requirement of maintaining or improving biodiversity values.

When we look at some of the measures listed under proposed section 126L, namely paragraphs (a), (c), (d), (k) and (l) we see that it is questionable whether these measures should be considered additional or whether they have the security and longevity required of conservation measures offsetting the permanent destruction of biodiversity. For example, how is the continuation of a development control plan [DCP] that limits or prohibits development a measure that maintains or improves biodiversity if it is in place regardless of offsetting? It is all chop and no swap. Furthermore, paragraph (o) leaves the door wide open for the Minister to define any other measures or activities as conservation measures. Supporting the inclusion of this paragraph is simply giving licence for executive excesses to undermine conservation management. Not only are these alleged conservation measures deficient in terms of demonstrating a real concept of additional that is essential to achieving the statutory test but they also lack a distinct element of security.

Property vegetation plans, voluntary conservation agreements [VCA] under the National Parks and Wildlife Act and biobanking agreements are generally attached to the title of the property and act as a positive or restrictive covenant. Varying or removing those agreements or instruments is difficult, thereby securing the integrity of the offset. Local councils can simply repeal or amend a development control plan or a plan of management. The Government will point out that the different conservation measures are weighted in the methodology and that this accounts for the lack of security of outcomes achieved by a development control plan. For example, the conservation measures are divided into three categories; planning scheme conservation measures, permanently managed conservation measures and permanently managed and funded conservation measures. Each category has a discount rating or weighting.

The Greens cannot support a bill that allows the permanent destruction of ecological communities and threatened species on the basis that a local council has provided temporary protection of the natural environment through a planning instrument. The use of planning-based conservation measures is not sufficient to achieve permanent improvement or maintenance of biodiversity values. The draft biodiversity certification assessment methodology at chapter 7.3—and what wonderful new green bureaucratic speak we have developed in this bill I should note—further contravenes the principle of additionality with the idea that only legally required management actions performed under existing conservation agreements such as voluntary conservation agreements are an existing conservation obligation.

For example, if I voluntarily agree with the Minister to establish a voluntary conservation agreement over my residence in perpetuity and register it on title then I have already agreed to protect that landscape. Any attempt to use an existing conservation measure for offsetting, voluntarily assumed or otherwise, is double dipping. The fact that I may or may not contract with the Minister to undertake specific management actions is in some ways irrelevant. As the Minister would be aware, more than 250 people in New South Wales have voluntarily agreed to voluntary conservation agreements and to undertake management actions to preserve biodiversity on their property. To define that an existing conservation obligation is based upon a demarcation between voluntary and legal obligations is simply fictitious.

Considering the draft biodiversity certification assessment methodology more broadly, there are a number of problematic elements to implementing this document. I acknowledge that any methodology or metric applied to calculate biodiversity value will continue to evolve. Proposed division 5 creates a process for the establishment, publication and amendment of the methodology. In relation to proposed section 126S, the failure to codify red flag provisions in the bill demonstrates that the most basic level of conservation protection consistent with the objects of the Act is not achievable under this regime. Red flag rules have been applied in the biobanking methodology and have not changed in the past two years, so there is no justification for not including those provisions in the bill.

Also of considerable concern is the use of a minor variation clause in proposed section 126Q, which is similar to minor variation clauses in the Native Vegetation Act and regulations. Paragraph (c) will allow an applicant Minister to circumvent the consistent enforcement and application of the methodology if the project economics will not look good for the applicant. If the Government insists minor variation provisions are necessary, all divergences from the methodology must be supported by publicly available expert evidence and assessment.

Proposed division 6 establishes mechanisms for the Minister to confer, extend or review biodiversity certification. There are a number of concerning provisions within this division but I only want to highlight the worst. Monitoring and auditing of conservation measures on a regular basis is fundamental to ensuring continued compliance with statutory tests. Proposed section 126ZC only requires a full review of biodiversity certification after 15 years. This is simply too long a time frame for strategic review of biodiversity certifications, especially in the context of metrics for measuring biodiversity evolving rapidly. Five years would be more appropriate.

Proposed division 7 outlines the enforcement powers of the Minister in relation to the compliance with proposed conservation measures. Once biodiversity certification is determined proposed conservation measures become approved measures. I think it is helpful to compare enforcement powers in division 7 of the bill with the enforcement powers in proposed sections 127L, 127N and 1270 because it highlights the absolute inconsistency and double standards of the department. In proposed division 7 of the bill the Minister has the sole discretion to determine recompense to remedy non-compliance.

The Minister can recover only the cost of covering the relevant approved measures and there are no third party standing rights to enforce compliance. In stark contrast, any person can seek compliance under a biobanking agreement from the Land and Environment Court under proposed section 127L (1). Under proposed section 127L the court has the power to impose damages for breach of a biobanking agreement and, in assessing damages, can consider any detriment to the public interest arising from the breach and any financial benefit derived from or sought by committing the breach. Under proposed section 127N the Minister can seek orders to enter a biobanker's land and remedy any breach or even go as far as seeking compulsory acquisition under proposed section 127O.

The gaping divergence in approaches to compliance and enforcement can be explained by the simple fact that the Government is not committed to maintaining the integrity of conservation outcomes. Proposed division 8 sets out the range of agreements that the Minister can enter into to facilitate the procedural and practical element of biodiversity certification. In particular, biodiversity certification agreements will be used to secure conservation measures necessary to achieve biodiversity certification. In many cases these agreements will be registered on the title of land. Unfortunately, there is no provision for publication of biodiversity certification agreements or conservation measure agreements even though the Department of Environment, Climate Change and Water has built a web portal for registration of biobanking agreements.

Proposed section 126ZW states that planning approvals or development consents obtained under part 3A, 4 or 5 prior to suspension or revocation remain unaffected by suspension or revocation of biodiversity certification. What is the status of development consent after biodiversity certification is withdrawn? Proposed Section 126ZZ removes any legal recourse for breaches of procedural requirements in the bill. In other words, all the safeguards that are built into the scheme's governance to ensure fair, transparent and accountable processes are not worth the paper they are written on. It speaks volumes about the commitment to this concept of biodiversity certification. It is a scheme perfectly suited to an environment Minister still wearing his planning stripes.

Overall the provisions in the bill allow for a level of flexibility and discretion in managing our biodiversity that is not acceptable nationally or internationally. The recent United Nations global biodiversity outlook highlighted that at the current rate of biodiversity loss there will be a severe reduction of many essential ecosystem elements critical to human societies. The bill does not arrest biodiversity loss in this State and, as such, the Greens oppose the bill.

This is a perfect example of something in action in New South Wales, which is optional preferential voting. If one takes this bill as an example, clearly neither the Government nor the Opposition are supportive, and I will campaign on the grounds of the bill in the near future, in the lead-up to the election. It is flying in the face of reasoned scientific assessments; it is flying in the face of all the rhetoric and hyperbole that has been put out by the Government and the Opposition with their green tinge; and it is a tragedy that, at this stage of governance and cycle of government, we see both the Government and the Opposition supporting such a development that really is a hypocrisy. I feel quite comfortable in opposing the bill.

Reverend the Hon. FRED NILE [8.53 p.m.]: I am pleased to support the Threatened Species Conservation Amendment (Biodiversity Certification) Bill 2010 on behalf of the Christian Democratic Party. The bill will amend the biodiversity certification provisions of the Threatened Species Conservation Act 1995. It

will address operational deficiencies within the current legislative framework for biodiversity certification. The Minister in the other place, Minister Frank Sartor, said that the bill cuts red tape. Actually it cuts green tape. That is the purpose of the bill. We could call it the "cutting green tape bill".

In 2007 certification was granted in relation to Sydney's north-west and south-west growth areas. This was challenged in court. In order to preserve the benefit of certification, a specific bill was passed to ensure it prevailed in that case. This bill now replaces the flawed provisions, opening up benefits for other areas of the State. The central element in the bill is to provide stronger provisions for ensuring that conservation outcomes are delivered as development proceeds and a requirement for use of an objective methodology when certification decisions are made.

The bill has a number of practical benefits. If it had been passed earlier, it would have had a big impact on the North Kellyville precinct of the Sydney growth centres. It would have replaced 272 assessment reports with one assessment report; it would have saved $2.6 million in assessment costs—a saving of around $3,700 per hectare of land; and it would have improved housing affordability by an estimated $300 per dwelling. All of those costs are put on to the price of a house and land, and it is young married couples—the consumers—that have to pay those costs. They are already paying council levies and the previous heavy-handed certification system only added further expense to people hoping to establish their own home.

The bill cuts red tape. For example, the effect of biodiversity certification will be extended to include projects determined under part 3A of the Environmental Planning and Assessment Act. Lands that have been certified will be excluded from the operation of the Native Vegetation Act, which I regard as draconian. I strongly opposed that legislation when it was originally introduced. I moved 40 amendments to it. Site-by-site development assessment will not be required. A sound platform for pursuing strategic assessment under the Commonwealth Environment Protection and Biodiversity Conservation Act will now be established.

The bill has practical benefits. It will clarify the process for making an application for biodiversity certification, improve enforcement and compliance, and remove the ambiguity of the term "conservation measures". The bill will list the conservation measures that may be used. These include development controls, reservation of land under the National Parks and Wildlife Act, planning agreements, conservation and biobanking agreements, plans of management and the retirement of biodiversity credits. It will also create a new type of agreement. Voluntary biodiversity certification agreements will be able to secure conservation measures when third parties may be involved, such as agreements for transfer of lands or for financial contributions to enable the future delivery of offsets. Because of those very practical measures, which cut a great deal of green tape, I am pleased to support the bill.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.57 p.m.], in reply: Conservation and industry groups agree that it is better to manage the biodiversity impacts of development at a landscape scale rather than suffer death by a thousand cuts through the tyranny of small decisions. It is more ecologically sustainable to establish long-term, well-managed conservation offset areas for impacts in environments in locations that are free from the threats of future development or incompatible neighbouring land use. It is also more cost effective to have a single up-front assessment rather than multiple development assessments. It is critical to provide security—security of conservation gains and security for development. The bill achieves those things. I thank all honourable members for their contributions and I commend the bill to the House.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 27

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Catanzariti	Mr Mason-Cox	Mr Veitch
Mr Clarke	Mr Moselmane	Ms Voltz
Mr Colless	Reverend Dr Moyes	Mr West
Ms Cusack	Reverend Nile	Ms Westwood
Mr Della Bosca	Mr Obeid	
Miss Gardiner	Ms Parker	
Mr Gay	Mrs Pavey	*Tellers,*
Ms Griffin	Mr Primrose	Mr Donnelly
Mr Kelly	Ms Robertson	Mr Harwin

Noes, 4

Mr Cohen
Ms Rhiannon
Tellers,
Ms Hale
Dr Kaye

Question 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.

HEALTH PRACTITIONER REGULATION AMENDMENT BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.07 p.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.

Over the last few years Australian governments have been engaged in a project to significantly restructure the way that health professionals are registered and regulated.

This process has been complex and difficult and, not surprisingly, it has taken a long time. The complexity of the process, and therefore its length, is understandable given the wide range of professions involved and the large number of stakeholders who are involved in each profession. These stakeholders include governments; health service providers; practitioners; educational institutions; professional associations; and, most importantly, health care consumers.

Stakeholders have freely given of their time and expertise to assist governments in developing the scheme and the legislation and the result is all the better for their involvement. I congratulate them for their commitment, energy and foresight.

As I have already noted the development of this scheme has been a lengthy process. The legislative milestones on the path have included

- the initial bill establishing the scheme's administrative arrangements which passed through the Queensland Parliament in November 2008;
- the passage of the National Law template through the Queensland Parliament in October 2009;
- passage of the Health Practitioner Regulation Act 2009 through this Parliament in November 2009; and
- the consideration of the current bill which establishes the New South Wales specific complaints, performance and health processes; establishes each of the health professional councils in New South Wales to administer those systems; and makes consequential amendments to a range of other New South Wales Acts including the Health Care Complaints Act, the Poisons and Therapeutic Goods Act and the Public Health Act.

As honourable members will therefore be aware there has been a significant amount of parliamentary time devoted to consideration of the National Registration and Accreditation Scheme in this Parliament as well as in the parliaments of other States and Territories. The devotion of significant amounts of time to this matter is appropriate given that it is of critical importance that effective regulatory and accountability systems exist for health professionals.

In considering the amendments to the National Law that are contained in the bill currently before the Parliament it will be valuable to recap on a number of the important matters that are addressed in the Health Practitioner Regulation Act 2009.

The Health Practitioner Regulation Act provides for the implementation in New South Wales of the Health Practitioner Regulation National Law. The National Law sets out the regulatory framework for the National Registration and Accreditation Scheme for Health Professionals. It implements the agreement signed in 2008 by the Council of Australian Governments to establish the National Registration Scheme by 1 July 2010.

The National Law provides for the registration at a national level of 10 health professions: chiropractic, dentistry—including dental hygienists, dental therapists and dental prosthetists—medicine, nursing and midwifery, optometry, osteopathy, pharmacy, physiotherapy, podiatry and psychology. Four further professions will be added to the national scheme in July 2012: Aboriginal and Torres Strait Islander health practice, Chinese medicine, medical radiation practice and occupational therapy.

The National Law will ensure that nationally uniform processes and criteria exist for registering practitioners and accrediting educational programs. The establishment of these uniform processes and standards will mean that uniformly high standards will be applied nationwide and that the public can have increased confidence that all registered health practitioners meet appropriately high standards.

Members will be aware that all national systems are, necessarily, the result of negotiation and compromise to reach outcomes acceptable to all jurisdictions. This national system is no different. Therefore, practitioners and regulators in New South Wales will find some differences in how registration, accreditation and other processes will be managed under the national scheme.

As I have indicated already, there are some areas where compromises have been made to reach agreement on a national system. However, there are some areas where the protection of the public demands that compromise is not possible. For this reason this Government has argued consistently that there can be no compromise in ensuring the maintenance of a strong, accountable and transparent disciplinary and complaints systems in New South Wales.

Members will be aware that the health care complaints system in New South Wales is virtually unique in Australia. The system divides the complaints and disciplinary roles between the health professional boards and the independent Health Care Complaints Commission. This structure evolved over many years, starting in response to the Chelmsford Hospital scandals in the 1980s through to the establishment of Australia's first fully independent health complaints investigator in 1993. The changes made to the New South Wales system over the last 20 years have focused consistently on enhancing the public accountability of health service providers and improving the capacity of the complaints system to protect the public.

The National Law's complaints model adopts processes similar to those that currently apply in most other States and Territories. It is markedly different from the current New South Wales model in relying primarily on the health professional boards to undertake disciplinary functions without the involvement of an independent investigator and prosecutor, such as the Health Care Complaints Commission. This Government remains committed to the Health Care Complaints Commission as an integral element in complaints management in New South Wales. For this reason the Government brokered an agreement with the other States and Territories, which will enable New South Wales to maintain the current New South Wales health complaints system and functions of the Health Care Complaints Commission.

New South Wales will therefore participate in national registration as a co-regulatory jurisdiction. As a result of being a co-regulatory jurisdiction New South Wales has not adopted the National Law complaints model, as set out in divisions 3 to 12 of part 8 of the National Law. Under the New South Wales approach the national registration boards will not deal with complaints about matters occurring in New South Wales and those matters must be referred to the New South Wales authorities, including the Health Care Complaints Commission, to be managed.

Stakeholders in New South Wales have uniformly welcomed the commitment of the Government to retain the existing complaints system and recognise the benefits that a robust, independent and transparent system delivers to the public, health practitioners and the health system as a whole. In terms of funding the New South Wales complaints system, health Ministers have agreed that the practitioners of other jurisdictions will not be called on to fund the complaints system in New South Wales and that practitioners in New South Wales equally will not be called on to fund the complaints system established under the National Law.

Because New South Wales is not adopting the national complaints model the bill currently before the House contains the New South Wales provisions that will replace divisions 3 to 12 of part 8 of the National Law. This bill reflects the Government's commitment to retain the Health Care Complaints Commission as a separate entity and extends many of the recent reforms to the Medical Practice Act to other professional groups.

Before I turn to discussing particular aspects of the bill I can advise members that in addition to tabling the bill I have also tabled a draft consolidation of the bill and the Health Practitioner Regulation Act 2009. This consolidation will assist honourable members and other stakeholders in clearly understanding the way that the legislative scheme is intended to operate.

I turn now to the specific provisions of the bill.

Amendment 3 of the bill includes a range of amendments to the front end of the Act to recognise the various regulatory structures and bodies that will operate under the New South Wales provisions.

Amendment 5 in the bill provides for the extensive amendments to the National Law.

The amendments to the National Law broadly fall into three separate categories:

- amendments to provide for the establishment and functions of the New South Wales professional councils;
- amendments to provide for the New South Wales specific complaints, performance and impairment systems; and
- amendments to provide for the ongoing regulation of pharmacy businesses and premises.

As the New South Wales Government has determined to maintain the New South Wales specific complaints performance and impairment systems it is essential that regulatory bodies are established to administer those systems. Accordingly the bill incorporates in the Act a new part 5A, which establishes a professional council for each profession.

Members will note that section 41B establishes a council for each profession that is currently included in the national scheme and provides that the list of councils may be amended by an order of the Governor. The reason for allowing amendment by Governor's order is to facilitate the inclusion of additional professions in the scheme including those professions which will be included on 1 July 2012.

Section 41E in conjunction with part 1 of schedule 2 sets out the composition of each of the professional councils. Members will note that a council composition has been set for each of the following councils:

- the Dental Council;
- the Medical Council;
- the Nursing and Midwifery Council;
- the Pharmacy Council;
- the Physiotherapy Council; and
- the Psychology Council.

Members will also note that those compositions reflect the current compositions of the relevant state registration boards, with the addition of a dental prosthetist to the Dental Council to acknowledge the inclusion of dental prosthetists within the regulatory oversight of the Dental Council.

The membership of these councils is set out in the legislation, as these are the professions for which the relevant national board has determined there will be a New South Wales State committee with those committees initially comprising the current members of the State board. Similarly the transitional provisions in the bill provide for the existing members of the relevant boards to become the members of the State councils for those professions.

However after 12 months the size and composition of the State committees of the national boards may change based on an analysis of the work that those committees undertake and the cost of maintaining them. In line with those changes the size and composition of the councils may also change. Therefore section 41E allows for the composition of the councils to be varied by regulation. Any variation will be undertaken only after consultation with all stakeholders including the councils, relevant professional associations and specialist colleges, and the national boards.

For the other four professions:

- chiropractic;
- optometry;
- osteopathy; and
- podiatry

the compositions of the councils will be set by regulation. In each of these professions the relevant national board has determined that there will be no State or Territory committee. Furthermore the numbers of complaints and other notifications that are made about members of these professions are at levels, which indicate that the costs associated with maintaining large councils cannot be justified. Accordingly the regulations will establish smaller councils, much like the boards' existing complaints screening committees, to undertake the relevant functions. I expect that the relevant councils will comprise three or four members made up of practitioners from the relevant profession and a legal practitioner. The effected professions will be consulted as the regulations are developed.

I would now like to focus on the most substantial and important part of this bill, that is the amendments to provide for the New South Wales specific complaints, performance and impairment systems.

As honourable members will recall the New South Wales Government has consistently stated that the sophisticated approach to managing complaints about health practitioners in New South Wales must be retained. That position was confirmed when this Parliament voted to adopt the National Law without the relevant aspects of part 8. At the time I indicated that further legislation would be necessary to establish the New South Wales complaints system.

New South Wales has for many years had an extremely sophisticated complaints and disciplinary system and a substantial amount of law and precedent has built up around that system. Much of that precedent has been established by the Medical Tribunal and relates to the definitions of unsatisfactory professional conduct and professional misconduct. In order that this body of precedent is not lost the existing conduct definitions from the Medical Practice Act are being retained and adapted for use by all professions. The principal definition of unsatisfactory professional conduct in the bill is in the proposed section 139B. Sections 139C and 1390 go on to set out additional matters relevant to medical practitioners and pharmacists respectively.

I can further advise the House that, as with the definitions of unsatisfactory professional conduct, the other aspects of the existing complaints processes are to be carried over with little change. This lack of significant change reflects the view that is widely held amongst the professions and the regulators that the current systems work well.

There are a small number of areas where there is to be change and many of these changes reflect changes brought about by the national registration system. These areas of change include:

- changes required to reflect the registration of students in all professions; and
- changes to the councils' powers regarding emergency suspensions.

In terms of the registration of students, which in New South Wales has previously been limited to medical and dental students, the relevant provisions have been updated to allow complaints to be made and action to be taken against a student in limited circumstances. Those circumstances are:

- where a student has impairment;
- where the student has been convicted or charged with a serious offence; or
- where the student has breached a condition of their registration.

Action may be taken against a student where the matter or matters giving rise to the complaint demonstrate that the student should not undertake clinical training involving contact with patients, or should only undertake such training subject to conditions.

These provisions reflect similar arrangements that will apply in all other jurisdictions.

In terms of the changes to provisions concerning emergency suspensions I can advise the House that the changes proposed involve not more than 8 weeks in suspension may apply for a review of that suspension at any time and as frequently as he or she wishes. Of course a council will be able to decline to accept an application that is frivolous or vexatious but the professional and board representatives who have considered this matter agree that it is appropriate and that the right to apply for a review at any time meets any concerns about procedural fairness.

The bill also contains a range of transitional provisions that will ensure that the transition to the national scheme does not render the investigation or prosecution of any current complaints void. The transitional provisions also provide for existing approvals for pharmacy premises and owners to carry over as well as relevant appointments in terms of pharmacy premises and inspections.

The transitional provisions also retain the exiting appointments to tribunals and committees as well as the appointments of performance assessors.

I turn now to those provisions dealing with the regulation of pharmacies. Those provisions are to become schedule SF of the Act.

The intergovernmental agreement establishing the national registration and accreditation scheme expressly excluded the regulation of pharmacies from the national process and left this matter to be dealt with at State and Territory level. Therefore the bill incorporates the existing provisions of the Pharmacy Practice Act and the Pharmacy Practice Regulation with respect to the ownership and control of pharmacies and with respect to the standards for the approval of pharmacy premises.

Of course the wording of a number of provisions dealing with pharmacies has varied slightly in order to accommodate national registration of practitioners and the consolidation in the Act of a number of matters that have previously been dealt with by regulation. Officers of the Department of Health have consulted with the Pharmacy Board, the Pharmacy Guild and the Pharmaceutical Society on these matters and those stakeholders have acknowledged that the provisions in the bill achieve the Government's goal to maintaining the status quo.

It is important to recognise that the absence of any material change in the legislative restrictions relating to pharmacy ownership means that any pecuniary interest in a pharmacy that was unlawful under the previous pharmacy legislation will remain unlawful under this legislation. There is no sleight-of-hand that will render previously unlawful interests lawful. The Pharmacy Practice Act 2006 includes a transitional provision to the effect that a person who lawfully held a pecuniary interest under previous pharmacy legislation is not precluded from continuing to hold that interest under the 2006 Act. This transitional provision was included tor the sake of clarity due to the fact that the 2006 Act incorporated a reasonably substantial updating of the pharmacy ownership provisions. As this Act does not include any such update the transitional provision is unnecessary.

A number of matters relating to the standards for the approval of pharmacy premises are currently dealt with in regulation. These matters, relating to equipment and publications, will continue to be dealt with by regulation and I give a commitment that the substance of the existing regulations will be retained.

Finally the bill also contains a range of consequential amendments to other state legislation. These amendments include:

- amendments to the Health Care Complaints Act to update that Act to fit in with the changes that have been implemented by the national registration scheme;
- amendments to the Poisons and Therapeutic Goods Act and Regulation to accommodate the shift to national registration;
- amendments to the Health Care Liability Act to reflect the requirement under the National Law that all practitioners hold appropriate professional indemnity insurance; and
- amendments to the Public Health Act to reflect that all relevant restrictions on the use of core restricted health practices, such as spinal manipulation, are now addressed in the National Law.

The development of this legislation has been complex and drawn out and has required a significant investment of time and energy by all stakeholders. Once again I extend the Government's thanks to all of the health practitioners who have freely given of their time and expertise to help develop this bill and whose commitment to high standards of practice and professionalism reflect positively on all health practitioners in this State.

I also wish to commend the Parliamentary Counsel and his staff for their efforts in bringing this complex piece of legislation to fruition.

I commend the bill to the House.

The Hon. JENNIFER GARDINER [9.07 p.m.]: The Health Practitioner Regulation Amendment Bill 2010 is a corollary to the Health Practitioner Regulation Act, which this House dealt with late last year and which provided for the national registration of health professionals that flowed from a Council of Australian Governments agreement in 2008. A template bill went through the Parliament in Queensland, and then was put before this Parliament, but without the measures that relate to complaints about health professionals, their performance, or health processes.

The New South Wales Parliament decided to reserve unto itself the right to establish and administer complaints and performance processes, and this bill is designed to fill the gap so that the overall national framework for registration of health practitioners, with the New South Wales variations, is in place for the 1 July 2010 start-up date for national registration of health professionals. The bill establishes each of the health professional councils in New South Wales that will administer those systems, and makes consequential amendments to a range of other New South Wales Acts, including the Health Care Complaints Act, the Poisons and Therapeutic Goods Act and the Public Health Act.

National registration provides for the registration of 10 health professions—chiropractic, dentistry, medicine, nursing and midwifery, optometry, osteopathy, physiotherapy, podiatry and psychology. Four other professions will be added in July 2012, namely Aboriginal and Torres Strait Islander health practice, Chinese medicine, medical radiation practice and occupational therapy.

The National Law, which comes into effect on 1 July, is to provide uniform law across Australia in relation to registering practitioners as well as the accreditation of educational programs. In New South Wales we have seen the evolution of a health care complaints system that divides the complaints and disciplinary roles between health professional boards and the independent Health Care Complaints Commission. The bill makes clear that New South Wales does not subscribe to certain elements of the National Law and sets out a unique New South Wales version of the law in relation to the health, conduct and performance of registered health practitioners and students, including the complaints and disciplinary scheme.

The bill makes provisions for the matters not previously adopted by the legislation that we debated before Christmas by establishing a separate system for dealing with complaints about registered health practitioners and students, concerns about the possible impairment of health practitioners and students, and assessments of the professional performance of health practitioners. It provides for the regulation of the acquisition of interests in pharmacy businesses and declares that this State is not participating in the health, performance and conduct processes provided by the National Law. It also declares certain New South Wales bodies established by the National Law (NSW) to be adjudication bodies, co-regulatory authorities and responsible tribunals for the purposes of the application of the National Law (NSW) in this State. It also deals with some other matters.

The Opposition notes some concerns with the bill. When the template law was debated in this place last year there was concern about dental technicians being left out of the registration provisions. These technicians make dentures, mouthguards, restorative or corrective dental appliances and other prosthetic appliances such as crowns and bridges. They do not deal directly with patients but they do fill orders for dentists and there have been cases highlighting the health dangers of prosthetics made from imported materials that do not comply with Australian safety standards. Some fears have been expressed that without controls through registration and with their not being covered by any complaints processes, the way is open for improper practice, uncontrolled use of materials and a lack of infection control. These potential problems were brought to the attention of the House last year and in the other place, and I again bring them to the attention of the House today. So, issues remain with that group of health professionals and it is a deficiency in the bill.

I also bring to the attention of the House some communication that the Opposition has received from the New South Wales Nurses Association, which is very concerned about the penalties provided in the legislation. In particular, the association has drawn attention to proposed sections 146C, 148F, 149B and

schedule 5D, which provide for the imposition of pecuniary penalties on nurses and midwives which the association believes could result in negative consequences for them. The Nurses Association is committed to the national registration scheme for health professionals but says that it is strongly opposed to the bill's extension of some of the recent reforms to the Medical Practice Act to other professional groups. The association says the imposition of pecuniary penalties will serve only to place unreasonable burdens on nurses and midwives, and potentially other registered health practitioners, without any improvement to the protection of public safety. The association says:

> The law intends to provide for different courses of action in the handling of a complaint about a registered health practitioner depending on that practitioner's profession. Therefore, the law must also provide for the exercise of differing disciplinary powers depending on a practitioner's profession and the potential impact of certain disciplinary actions, for example capacity to pay, on the practitioner.

The Nurses Association maintains that otherwise the New South Wales law will be inconsistent with the objectives and guiding principle of the National Law, which require the scheme to operate in a transparent, accountable, efficient, effective and fair way. The association goes on to say:

> The purpose of health practitioner regulation is to protect the public, not to provide for the inappropriate and disproportionate punishment of health practitioners. Therefore, only disciplinary actions which are designed to protect and improve public safety should be included in this law.

The association does not believe that the bill achieves this. The association continues:

> We point out that for those professions where many practitioners work in private practice and have a retail component to their practice, these provisions may have less impact. However … nurses and midwives almost always practise as employees and are therefore much more likely to be negatively affected by these provisions. This would equally apply to any other registered health practitioner who practises as an employee.

The Nurses Association's preferred position would be to remove the pecuniary penalties from the bill. The Opposition notes those concerns and the concerns about dental technicians, which have been overlooked in the bill before the House. Apart from those matters, the Opposition does not oppose the bill.

Ms LEE RHIANNON [9.20 p.m.]: The Greens recognise that the Health Practitioner Regulation Amendment Bill 2010 contains many important aspects. The Greens also acknowledge the overall benefit and need for national legislation to provide protection for a range of measures including wage provision and entitlements, occupational health and safety, and, in this instance, the regulation, certification and available procedural avenues for health professionals. However, the Greens are concerned that the centralisation, or so-called harmonisation, of much of the industry—I mentioned this earlier tonight in debate of other legislation—could leave workers worse off in some situations. Whilst the legislation contains merit it also contains some worrying aspects. The Greens will be moving amendments to help iron out some of those problems.

It is important, considering we are dealing with issues involving the health industry and that Australia suffers from a lack of trained professionals, for us to look at ways in which we can encourage people to enter the health profession and to stay in that profession. Unfortunately in this instance, particularly as regards penalties, the result could be a loss of health professionals, and that would be to the detriment to the requirement of improving health services across the State and the work of health practitioners. We need a climate that works for health practitioners as well as the people who draw on their services.

The Greens are concerned about the issue of complaints and how penalties are handled. I will outline how the system is proposed to work in this bill and then raise some of our concerns. The bill establishes specific complaints, performance and health processes. That is obviously required but how it plays out is a matter for concern. The Greens understand that the new National Law provides for the registration at a national level of 10 health professions, and it will pick up a further four later on. This was documented in earlier speeches, so I will not go into the detail. The Greens do not dispute that. However, the Greens have a problem with how these complaints are to be handled. We will end up with professional standards committees to which complaints may be referred that will have a considerable breadth of options, including the provision for cautioning and reprimanding a health practitioner, imposing conditions on the persons practising, ordering medical or psychiatric treatment, requiring the completion of educational courses, requiring periodic reporting, and even recommending suspension or cancellation of the health practitioner's registration on the grounds of physical or mental capacity.

If a council refers a complaint about a registered health practitioner to an assessment committee then the complaint is to be dealt with by investigating and endeavouring to settle that compliant. The Greens have no

dispute with that but are concerned about how the issue of costs is to be handled. The Legislation Review Committee, when making its assessment of this legislation, also raised concerns. Page 18 of "Legislation Review Digest No. 7 of 2010" states:

> The Committee therefore has concerns that the current situation of allowing for emergency suspensions of not more than eight weeks in duration will now be extended to an indefinite period of time. Accordingly, the Committee refers this to Parliament for consideration as to whether the proposed section 150 of Subdivison 7 of Part 8, Division 3, Schedule 1 [15] of the Bill may trespass unduly on personal rights and liberties.

I ask the Minister to respond to the Government's handling of those concerns in reply. A letter from Brett Holmes, General Secretary, New South Wales Nurses Association—which a number of members would have received—best details some of the Greens concerns. In that letter dated 1 June 2010 Mr Holmes states:

> … we are strongly opposed to the bill's extension of some of the recent reforms to the Medical Practice Act to other professional groups. The imposition of pecuniary penalties, as outlined above, will serve only to place unreasonable burdens on nurses and midwives, and potentially other registered health practitioners, without any improvement to the protection of public safety.

The issue of public safety is paramount and should be weighed up, but are we delivering that by the penalties and costs imposed on nurses and midwives who, in the majority of cases, are employees and thus in a different situation from many other health professionals? Mr Holmes continues:

> The law intends to provide for different courses of action in the handling of a complaint about a registered health practitioner.

The actions taken should vary according to the practitioner's profession, and that is also something lost in this bill. The Greens believe we should have a similar situation to the current one in order to avoid the possibility of heavy costs being placed on nurses and midwives. We basically need different disciplinary powers. It comes down to the issue of the capacity to pay, and that is very variable depending on the type of health professional. Explaining how the National Law works, Mr Holmes noted:

> … [it] will require the scheme to operate in a transparent, accountable, efficient, effective and fair way.

That is what we should be aiming for. We need to recognise what is trying to be achieved here. What is intended—and I imagine what we agree on—is that the public is protected, not to provide for the inappropriate and disproportionate punishment of health practitioners. If members focus on that I hope the Greens amendments will be supported. Only disciplinary actions that are designed to protect and improve public safety should be included in this bill; those that achieve public safety and do not provide potential financial burden to employees such as nurses and midwives. Clearly, an employee will be more affected by these provisions. Mr Holmes also states:

> … the law should provide for the imposition of such penalties only in circumstances where it can be assured that there is no negative financial impact on the health practitioner, which is irrelevant to [the] protection of the public.

Again I ask the Minister to explore that aspect, because I am taking it at face value that the legislation is about protecting the public. If the Government does not support the Greens amendments it would be useful to have some indication as to its position on this. Because if there is to be a negative financial impact on health practitioners—they will be up for a lot of money and may well have lost their jobs—how will that help to protect the public? At the moment the tribunal can award costs but only if it is satisfied that there are special circumstances warranting an award of costs. I would argue that that is the system to which we should be returning. As I said earlier, the Greens recognise the need for this legislation but remain concerned about aspects of it that could prove to be detrimental to the overall intent of the legislation, which is to improve public health and to protect the public.

The Hon. HELEN WESTWOOD [9.29 p.m.]: I speak in support of the Health Practitioner Regulation Amendment Bill 2010, which is necessary to allow the current New South Wales complaints system to interact with the national registration and accreditation system. New South Wales is not participating in the complaints component of the national scheme, the significance of which should not be understated. New South Wales is the only jurisdiction to operate a completely independent health complaints investigator. The Health Care Complaints Commission investigates and prosecutes complaints against health practitioners. Although it works in consultation with the registration boards, it does not act under their direction. New South Wales also has the most sophisticated system for managing impaired practitioners and for performance management of practitioners whose professional performance is poor.

The aim of the system is to identify issues before they become elevated to the complaints system. In no other jurisdiction is there such a comprehensive and transparent approach to managing the performance and

impairment of health practitioners, or a system that provides such thorough public protection. This Government has fought hard to retain this world-class system, and it is something of which it is extremely proud. The Government has received consistent and steadfast support for this position from health professionals and the broader community. It is important to emphasise what support there is for the health care complaints system in New South Wales, in particular, amongst health professionals and health care consumers.

On hearing the contribution of Ms Lee Rhiannon one could be forgiven for thinking that this was a second-class option and that the health care profession neither supported nor welcomed this legislation, when in fact the opposite is true. Members should remember that this legislation came about because we now have a national accreditation and registration system that is welcomed and completely endorsed by health care professionals. This is the system they want.

Ms Lee Rhiannon: Not by New South Wales nurses.

The Hon. HELEN WESTWOOD: All health care professionals supported this legislation, including the nurses. There has been wide and broad consultation with all professionals, including nurses and midwives, and they have supported this legislation. The three members of the Committee on the Health Care Complaints Commission who are in the Chamber tonight can attest to that widespread support. The committee heard from nurses, unions and the board, and there is support for this system. There is also support from health care consumers. This is the best health care complaints system in this nation, and that is why the New South Wales Government fought hard to retain it. One would have thought that the Greens would welcome and support it. I am astounded by the approach of the Greens to this legislation.

Ms Lee Rhiannon: We are supporting the New South Wales nurses.

The Hon. HELEN WESTWOOD: As I said earlier, this Government fought hard to retain this world-class system. On commencement of the national scheme, health care practitioners in New South Wales will be registered nationally in accordance with the National Law, and will be national registrants. Nurses in particular support this legislation as it enables them to have registration across jurisdictions. If they move from one State to another, they do not then have to reregister in another State—a problem that they have had in the past. They want this system. The Greens are now suggesting that somehow or other the nurses oppose this legislation when nothing could be further from the truth. The Greens are misrepresenting the nursing profession.

It is also important to note that practitioners who identify their primary place of practice as New South Wales will not be subject to the national complaints scheme. Instead, they will be covered by the New South Wales model for managing complaints, performance matters and health matters. Even though the management of complaints, performance and health matters will be retained in New South Wales, the outcomes of investigations and prosecutions will be reported to and, as necessary, implemented by, the national boards as part of the national scheme. The National Law has, therefore, been drafted to enable a co-regulatory jurisdiction such as New South Wales to adopt and apply the National Law and to use its State legislation for handling complaints about health, conduct or performance matters. If a complaint is made about behaviour that occurred or is reasonably believed to have occurred in New South Wales, the matter must be referred to New South Wales authorities to manage. Stakeholders in New South Wales have uniformly welcomed the commitment of the Government to retain the existing complaints system, and they recognise the benefits that a robust, independent and transparent system delivers to the public, to health practitioners and to the health system as a whole.

When funding the New South Wales complaints system, health Ministers have agreed that the practitioners of other jurisdictions will not be called upon to fund the complaints system in New South Wales, and that practitioners in New South Wales equally will not be called upon to fund the complaints system established under the National Law. The national registration and accreditation scheme is required to be completely self-funding and national boards will, therefore, change registration and other fees to cover their cost of operation. Fees will need to cover all costs of operation, including costs associated with operating State and Territory committees, and fees associated with the national boards complaints and disciplinary processes. As New South Wales will not participate in the national complaints process it has been agreed that New South Wales practitioners will not be required to pay the costs associated with those processes and will, instead, pay the costs associated with the New South Wales specific complaints processes.

The national fees charged by the boards will, in the case of New South Wales-based practitioners, include a component separately calculated to meet the costs associated with operating the New South Wales

complaints system. The New South Wales complaints system fees will be determined by New South Wales councils and collected by the national boards. The New South Wales component of the fees charged to each profession will be determined by the relevant New South Wales council based on its budgeted need for the coming year. That component will then be collected by the national agency in its usual annual fee collection and transmitted to the New South Wales councils. Based on the calculations that have been done by the national boards and the calculations of future resources likely to be required by the New South Wales councils, I understand it is currently expected that New South Wales practitioners will receive fee rebates of between $15 and $200.

It is important to emphasise that the health care complaints systems in other States are markedly different from the current New South Wales model and rely primarily on health professional boards to undertake disciplinary functions without the involvement of an independent investigator and prosecutor, such as the Health Care Complaints Commission. A professional council for each profession will replace the current State boards, and the existing co-regulatory structures, through which the Health Care Complaints Commission receives and investigates complaints, will be retained.

It is important to highlight again that significant consultation has occurred with all the health care professionals, who overwhelmingly support this legislation. They support the national accreditation registration system and they support retaining the excellent health care complaints system that we have in this State. This bill recognises the significant role that our complaints and disciplinary system plays in our health system. It is necessary to retain the New South Wales complaints system and to allow it to operate with the national registration and accreditation scheme, which will commence on 1 July this year. It reaffirms this Government's commitment to our world-class complaints system. I commend the bill to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.39 p.m.], in reply: I thank members for their contributions to this debate. The Health Practitioner Regulation Amendment Bill is, as members have noted, an essential aspect of implementing the national registration and accreditation scheme for health professionals in New South Wales. The bill will ensure that the world-class New South Wales approach to dealing with complaints about the conduct, performance and impairment of health practitioners continues under the national arrangements.

The Opposition raised the issue of the inclusion of dental technicians. Dental technicians have been registered in New South Wales since 1975 and currently also are registered in the Australian Capital Territory, Queensland and South Australia. Dental prosthetists currently are registered in all jurisdictions. The essential distinction between dental technicians and dental prosthetists is that prosthetists may attend upon and deal directly with their own patients, while dental technicians may not see patients and may only undertake technical work on the written order of a dentist or a dental prosthetist. In other words, there is always another registered practitioner between the patient and the technician who is responsible for patient satisfaction. On that basis and on a genuine and independent assessment of the risk to patients associated with the practice of dental technicians, dental technicians will not be included in the national scheme.

A concern was raised about what that means in relation to public interest and patient safety. The annual reports of the Health Care Complaints Commission and the Dental Technicians Registration Board indicate that historically there have been limited numbers of complaints about dental technicians. However, the code of conduct for unregistered health practitioners will continue to apply to address any further issues that may arise in the future. I can advise the House also that the bill contains transitional provisions to ensure that any existing disciplinary orders relating to dental technicians will become prohibition orders under the Public Health Act and that any complaint that is being dealt with on 30 June 2010 can be dealt with under the Unregistered Health Practitioners Code of Conduct.

The Greens indicated that they will move amendments in Committee relating to issues that have been raised by the New South Wales Nurses Association. A couple of elements are involved in that. The first relates to the power to award costs. Currently all health professional tribunals, ranging from the Medical Tribunal to the Dental Tribunal, the Podiatrists Tribunal and the Osteopaths Tribunal, have the power to award costs in favour of the successful party to a hearing, except that the power of the Nurses and Midwives Tribunal to award costs has the caveat that it may only do so if it finds special circumstances warranting the award of costs. There is no good reason that can be supported on public policy grounds why nurses and midwives should be subject to different rules in this respect from those that apply to any other profession. I also am advised that before the caveat was added to the Nurses and Midwives Act the Nurses and Midwives Tribunal, as it then was, did not routinely award costs. In fact, it did so only in cases where the special circumstances of the case warranted an

award of costs. The Government is of the view that costs should not be awarded as a means of punishing a practitioner but rather in favour of the successful party in circumstances where it has been put to unnecessary or unreasonable expense or delay in dealing with a matter by the other party, whether that is a practitioner or the prosecuting authority.

The Nurses Association also raised concerns about those provisions of the bill that provide tribunals and disciplinary committees with the power to fine practitioners who are found guilty of professional misconduct or unsatisfactory professional conduct. The power to fine has existed in the Medical Practice Act for many years. This power is used sparingly but in the view of the medical profession it is important for those very few cases where no other order is appropriate or for practitioners who respond to nothing other than a financial penalty. I will give the House some figures in this respect. The Medical Practice Act, since its commencement in 1992, included a power for the Medical Tribunal and professional standards committees to fine practitioners who have been found to have engaged in misconduct. The New South Wales Medical Board advises that the power to fine is used sparingly and that over the past five years the Medical Tribunal has fined practitioners in 11 out of 88 cases and professional standards committees have issued fines in two out of 92 cases. These cases routinely involve instances where the practitioner has been inappropriately enriched by the relevant misconduct.

The bill's proposed power for disciplinary bodies to fine practitioners is tempered by the requirement that it is to be used only when no other order or combination of orders that is appropriate in the public interest will be effective. The caveat does not currently exist in the Medical Practice Act and was specifically included to recognise the situation of employed practitioners. In rolling out the power to fine to other professions, the Government recognises that professions other than medicine have access to public funding by the expanded Medicare system and that this gives some practitioners an additional capacity to benefit financially from improper conduct. As I said, the power to fine is tempered by the requirement that it is to be used only when no other order or combination of orders will be effective to protect the public interest. Professions other than the nursing and midwifery professions have not indicated any concerns with this approach. I thank members for their consideration of this bill. I indicate that the Government will not support the Greens amendments, about which I will have more to say in Committee. 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.

In Committee

Clauses 1 and 2 agreed to.

Ms LEE RHIANNON [9.46 p.m.], by leave: I move Greens amendments Nos 1 to 4 in globo:

No. 1 Page 37, schedule 1 [15], proposed section 146C, lines 15–30. Omit all words on those lines.

No. 2 Pages 44 and 45, schedule 1 [15], proposed section 148F, line 28 on page 44 to line 4 on page 45. Omit all words on those lines.

No. 3 Page 48, schedule 1 [15], proposed section 149B, lines 1–17. Omit all words on those lines.

No. 4 Page 150, schedule 1 [25], proposed clause 13 of schedule 5D. Insert after line 23:

(1A) However, the Tribunal may order a registered health practitioner who is an employee within the meaning of the *Industrial Relations Act 1996* to pay costs to another person only if it is satisfied there are special circumstances warranting the making of the order.

These amendments deal with issues relating to the imposition of pecuniary penalties. The penalties that relate to nurses and midwives motivated the Greens to move these amendments but because of the nature of the bill, which concerns the regulation of health practitioners, the amendments apply across the board. I want to refer to some comments that were made during the second reading debate that are relevant to these amendments. The Hon. Helen Westwood gave inaccurate information about the New South Wales Nurses Association. The Hon. Penny Sharpe in her speech in reply went some way to correcting that misinformation. However, it is important to put on the record the information provided by the New South Wales Nurses Association. I provided some of

this information to the House in my contribution to the second reading debate, but given the Hon. Helen Westwood's contribution and possible confusion about the position of the New South Wales Nurses Association and the Greens, I will restate it. Mr Brett Holmes in his letter of 1 June 2010 states:

> I am writing to draw your attention to certain provisions included in the draft consolidation of the Health Practitioner Regulation National Law. Sections 146C, 148F, 149B and Schedule 5D, as currently drafted, provide for the imposition of pecuniary penalties on nurses and midwives, which could result in significant negative consequences for our members.

Clearly, the New South Wales Nurses Association has raised a problem with the bill.

The Hon. Penny Sharpe: That does not mean that they completely reject the bill.

Ms LEE RHIANNON: I acknowledge the interjection of Ms Penny Sharpe. I clearly set out in my contribution to the second reading debate that the Greens support this legislation. We can criticise a bill without rejecting it. The Government should be willing to take that on board. Mr Holmes goes on:

> As you are aware, the NSW Nurses' Association … is committed to a scheme for national registration of health professionals and acknowledges the progress that has been made towards the development and implementation of a scheme which achieves the purpose of protection of public safety while preserving health professions' integrity.

Again, that is what the Greens set out in the second reading debate. Certainly, the pointscoring or confusion brought about by this bill is not helpful. The next paragraph from Mr Holmes states:

> We recognise the previous Health Minister's success in securing the continuation of the Health Care Complaints Commission … and the current model for complaints handling in NSW and acknowledge the importance of independence and integrity of the investigative process in complaints handling to all health professions in NSW.

I place that on the record to correct earlier comments. The opening paragraph of his letter identified a problem with how the penalties contained within this legislation are applied. Currently, pursuant to section 64 (6) of the Nurses and Midwives Act 1991, the Nurses and Midwives Tribunal may award costs only in special circumstances when the tribunal is satisfied that an order for costs is warranted. This provision recognises that, having had complaints against them proven and appropriate disciplinary action applied, such as their removal from the register or roll of nurses and midwives, or conditions placed on their practising certificate, nurses and midwives would be unlikely to have the capacity to pay costs that are often in the range of $15,000 to $50,000, and on occasions even more. They have been punished already and in many cases have lost their ability to earn their previous income, yet under this proposed new system they can be hit with these heavy costs.

New section 13 of schedule 5D to the bill provides for the tribunal to award costs without the checks and balances previously required by section 6 (4) (6) of the Nurses and Midwives Act. Permitting the application of this new section 13 to nurses and midwives will result in their significant financial hardship without any assurance of improved protection of public safety. That is the point I made during the second reading debate. If this debate is all about the protection of public safety, why impose this extra burden of penalties on employees only and not everybody in this instance? The Greens amendments will provide protection to employees to reduce the likelihood of their losing their income.

Despite what Ms Helen Westwood said, it is quite clear from Brett Holmes' letter that the Government is pushing ahead with imposing heavy penalties on employees. Clearly, there is disagreement about that aspect of this legislation. Labor should at least acknowledge the difference. I believe it has a problem on its hands. Although the awarding of costs is consistent with legislation governing other professions, for health practitioners, such as nurses and midwives, I shall continue to argue that it is inappropriate. Other punitive and more appropriate measures are available. The current proposal takes penalties to an inappropriate level for these practitioners.

The Greens seek to amend sections 146C, 148F and 149B. These all relate to pecuniary penalties or fines on health professions. Members need to realise that we are dealing with a completely new provision for health practitioners. I reiterate that the imposition of fines will serve only to place unreasonable burdens on health practitioners who are employees without leading to any improvement in public safety. The Minister needs to identify how public safety is being improved by imposing excessive penalties on employees, such as nurses and midwives. One wonders whether the Government is pursuing these amendments in the interests of public safety or as a revenue-raising exercise to fill dwindling public coffers—perhaps not. I note that the Parliamentary Secretary frowns at that remark.

The Hon. Penny Sharpe: I'm just waiting my turn to speak instead of interjecting.

Ms LEE RHIANNON: I acknowledge the interjection; it was good. The purpose of health practitioner regulation is to protect the public, not provide for the inappropriate and disproportionate punishment of health practitioners. The essence of the Greens amendments is not about placing additional burdens on health professionals who are employees. Therefore, only disciplinary actions designed to protect and improve public safety should be included in the law. In professions where many practitioners work in private practice and have a retail component to their practice, such as dentists or optometrists, these provisions will have less impact. However, nurses and midwives almost always practice as employees and, therefore, are more likely to be negatively affected by the provisions. Pecuniary penalties create a disproportionate level of disciplinary action.

The Greens have four amendments. I have clarified that the first three amendments bring balance with respect to how employees are treated. The fourth amendment basically restores the status quo, but not just for nurses and midwives; it puts it in the context of employees. It states:

> However, the Tribunal may order a registered health practitioner who is an employee within the meaning of the *Industrial Relations Act 1996* to pay costs to another person only if it is satisfied there are special circumstances warranting the making of the order.

The amendment does not make an enormous change. Basically, it returns the situation to the status quo, but provides the system for all employees. Costs can be awarded in special circumstances. This amendment certainly will reduce the hardship that can result for the majority of midwives and nurses who are employees. I commend the amendments and look forward to hearing the contributions of other members.

The Hon. JENNIFER GARDINER [9.56 p.m.]: As I noted in the second reading debate, the Opposition notes the concerns of the Nurses Association regarding the bill, but does not support the amendments at this time.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.57 p.m.]: As I indicated in my speech in reply, the Government does not support the amendments. The effect of Greens amendments Nos 1 to 3 would be that tribunals and other disciplinary bodies would be unable to fine practitioners found guilty of misconduct. The Government could not support that step. While the Government acknowledges that the health professional disciplinary process is designed to be protective rather than punitive in nature, nonetheless it remains the case that the power to fine in certain cases can have a protective effect. That is how the power has always been used by the NSW Medical Tribunal and other professional standards committees under the Medical Practice Act.

It is important to examine the figures I provided earlier because they are quite instructive as to how limited the use of this power has been in the past, and there is no reason to suggest that its use would increase in the future. The NSW Medical Board advises that in the past five years the Medical Tribunal has fined practitioners in 11 out of 88 cases, or in 12.5 per cent of cases, while professional standards committees have issued fines in two out of 92 cases, or in less than 2.2 per cent of cases. These cases routinely involve instances where the practitioner has been inappropriately enriched by the relevant misconduct. It is abundantly clear that the tribunal and professional standards committees do not fine practitioners as a default option; nor do they seek to impose fines in a punitive manner.

It is important to acknowledge that the proposed power to fine, which is contained in the bill, can be used only when no other order or combination of orders is appropriate in the public interest. This caveat does not exist currently in the Medical Practice Act and was specifically included to recognise the situation of employed practitioners. This is an improvement to current law, and the Greens seek to remove that.

It is also important to acknowledge that not only would approval of these amendments remove the power of tribunals, professional standards committees and councils to access a potentially valuable disciplinary tool but also it would put New South Wales out of step with the range of orders available in all other jurisdictions. Section 196 (2) (c) of the National Law applies in all jurisdictions other than New South Wales and provides all relevant tribunals with the power to fine practitioners from all professions. It is of note that this power to fine is not subject to any limitations such as that in the proposed New South Wales law. There appears to be no good reason to single out practitioners in New South Wales for special concessions in this respect and it would arguably weaken the ability of the New South Wales system to respond appropriately to findings of misconduct.

Amendment No. 4 limits the capacity of tribunals to award costs in appropriate cases. There may be many cases in which an employed health practitioner is found guilty of misconduct and a tribunal considers it appropriate to award costs in favour of the Health Care Complaints Commission. The proposed amendment

would limit the tribunal's power and therefore would deliver not only a saving to that individual employee but also a windfall gain to the practitioner's professional indemnity insurance. As it stands, the bill largely maintains the status quo in relation to the awarding of costs. The proposed amendment represents a significant departure from that position and the Government will not support it.

Ms LEE RHIANNON [10.00 p.m.]: I ask the Parliamentary Secretary why she asserts that the Greens amendments remove an important disciplinary measure when Greens amendment No. 4—the active part of our proposal—states that the tribunal may order a registered health practitioner to pay costs to another person only if it is satisfied there are special circumstances warranting the making of the order. The Greens amendment still provides for a disciplinary measure but it is recognised that employees are in a different position from many other health professionals. Could the Parliamentary Secretary explain why the Government is not willing to make that distinction and what is the problem with Greens amendment No. 4, which provides a disciplinary measure?

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.02 p.m.]: The Government's case is very clear. We believe that there are times when it is appropriate to award costs. Where we disagree is on the degree to which costs are awarded. We do not go as far as the Greens on this issue and we do not support their proposed amendments.

Question—That Greens amendments Nos 1 to 4 be agreed to—put.

The Committee divided.

Ayes, 4

Dr Kaye
Ms Rhiannon

Tellers,
Mr Cohen
Ms Hale

Noes, 22

Mr Ajaka	Mr Khan	Mr Veitch
Mr Catanzariti	Mr Mason-Cox	Ms Voltz
Mr Clarke	Mr Moselmane	Mr West
Mr Colless	Reverend Dr Moyes	Ms Westwood
Mr Della Bosca	Reverend Nile	
Ms Fazio	Ms Parker	*Tellers,*
Miss Gardiner	Ms Robertson	Mr Donnelly
Mr Gay	Ms Sharpe	Mr Harwin

Question resolved in the negative.

Greens amendments Nos 1 to 4 negatived.

Schedule 1 agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

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) [10.11 p.m.]: I move:

That this House do now adjourn.

GOVERNOR LACHLAN MACQUARIE

The Hon. JOHN DELLA BOSCA [10.11 p.m.]: Tonight I acknowledge Governor Lachlan Macquarie. Macquarie, along with wife, Elizabeth Campbell, arrived in Sydney on 28 December 1809, and Macquarie was sworn in as the fifth Governor of New South Wales on 1 January 1810. Of course, 2010 marks the 200th anniversary of the start of Macquarie's tenure as Governor. As members of this place would know, events will be held throughout New South Wales this year as part of the Macquarie 2010 Bicentenary Commemorations. The lights projected across the front of Parliament House are an obvious part of the program of events, with Macquarie Visions lighting up Macquarie Street as part of Vivid Sydney until 20 June. Of course, it is appropriate that a street that bears both Macquarie's name and the significant imprint of his legacy would be made so conspicuous during this time.

Shortly after Macquarie's arrival he set aside land and created a new road, now Macquarie Street, for the establishment of a hospital. Having been denied funding by the British Government, Macquarie entered into an agreement with a business consortium under which convict labour and supplies would be provided, along with an agreement that costs and profit could be recouped by the consortium through the grant of a monopoly on rum imports. Members occupy part of that legacy: the northern wing of that hospital forms part of Parliament House. It is interesting to reflect on this early public-private partnership and the changed nature of the relationship between health services and alcohol.

Lachlan Macquarie was a visionary. He was a man generally remembered as being determined to build a society that would be fairer, more humane and more united than the one he left behind in Great Britain, which was of course a world away from the Great Britain we know today. Governor Macquarie undertook an ambitious program of public works that was on a larger scale than anything else that had preceded him. His program included schools, churches, roads and the new hospital. Overall, he was responsible for 265 public works of varying degree during his 12 years in office.

Macquarie's vision extended beyond Sydney. He encouraged exploration. In 1813 he sent Blaxland, Wentworth and Lawson across the Blue Mountains. As we all know, the results of this crossing were far reaching for the future development of Australia. Governor Macquarie championed emancipation. He strongly believed that convicts whose sentences had expired, or who had been given conditional or absolute pardons, should be encouraged back into society and given full rights. Macquarie appointed emancipists to government positions, including the appointment of two magistrates. Macquarie also fostered the career of former convict Francis Greenway, a colonial architect. Greenway was employed as the chief government architect and went on to design many of the landmark buildings in Sydney, such as those we celebrate in the Vivid Sydney Festival—Hyde Park Barracks, St James Church and the Port Jackson Lighthouse.

Macquarie was the first Governor to refer officially to Australia by name in 1817 by endorsing the name used by Matthew Flinders. He was also the first Governor to give official recognition to Australia Day, which was known then as Anniversary Day. He declared that the day would be a public holiday for government workers and ordered a 30-gun salute to be fired at the battery at Dawes Point—a tradition that was retained by all Governors who succeeded him.

Elizabeth Macquarie was a strong supporter of her husband's visions and played a significant role in the establishment of the colony. She helped to introduce haymaking to New South Wales and was the instigator of much of the design and supervision of many buildings and roads within the colony. Elizabeth is similarly remembered in a number of landmarks, such as Mrs Macquarie's Chair, Elizabeth Bay and any number of Elizabeth streets around Sydney's general central business district and throughout associated suburbs, towns and cities.

Among many achievements, Lachlan Macquarie established the colony's first post office, the Bank of News South Wales, which is now Westpac, and introduced the first system of coinage. He instituted public and private education systems and acquired the colony's first courthouses, its first hospital, independent newspaper and churches for public worship, which were sponsored and fostered by the Government. The House heard previously from my colleague, the Hon. Ian West, about the less glorious components of Macquarie's time as Governor. The maxim that history is often written by and for the victors is often true. It can often mask or hide the experiences of oppressed and politically voiceless people, particularly Aboriginal Australians.

The knowledge and investigation of both the successes and failures of those who came before us, particularly our public figures, remain crucial to the administration of this great State. Governor Macquarie's legacy remains significant. Indeed, it is probably one of the poignant elements of Australian history that, as the Hon. Ian West pointed out, Governor Macquarie was not only responsible for great achievements dating from the time of European settlement but also responsible in another way for many aspects of what has become understood to be the invasion. Nonetheless, I believe his impact on our society and the vision that he put forward about Australia very early in our settlement should be celebrated. I am very happy that we have the admirable display of the Vivid Sydney Festival to celebrate his achievements and work.

PICTON ROAD UPGRADE

The Hon. JOHN AJAKA [10.16 p.m.]: The stretch of Picton Road between Mount Ousley and the Hume Highway, straddling the electorates of Wollondilly and Wollongong, has recently been labelled Australia's most dangerous road. Over the past decade there have been 21 deaths along its treacherous path, the last of which, in December 2009, took the lives of an innocent family of five. Sadly, the State Labor Government, in the course of its 15-year rule, has done little to appease the users of Picton Road; it has simply waited and watched as life after life senselessly perished. Last month the concerned staff at the *Illawarra Mercury* newspaper embarked on an investigation of their own. I quote from an article of 5 May 2010:

> Despite exhaustive investigations, we have not found a comparable stretch of road with such a horrendous toll.

The NRMA recently rated the Barton Highway near Canberra as the most dangerous highway in the nation, with 14 deaths in 10 years. Picton Road has had 21 fatalities in the same period. The people of Wollondilly and Wollongong who have watched this carnage take place are at a loss to understand the Government's lack of action. While I welcome the Government's commitment to new funding for the upgrade, its expediency and efficiency in rolling out these upgrades is questionable at best.

The greatest tragedy of Picton Road is that up to 21 deaths could have been prevented if the road had received the necessary upgrades in a timely fashion. A magistrate even confirmed that median barriers along the road could have prevented the deaths of the family I referred to earlier. As soon as that became known last month, the New South Wales Liberals and Nationals joined the Federal member for Macarthur, Pat Farmer, to commit $20 million in funding to installing median barriers along 10 kilometres of the road's worst section.

The fact is that loss of life, years of community protest, and a looming State election should not form the prerequisites for safety upgrades to roads in our State. It is a shame this negligent Keneally Labor Government does not share the community's sentiment. Why local communities have to endure so much tragedy and heartbreak before the Government takes any action I cannot comprehend. The New South Wales Liberals and Nationals made a commitment to improving the safety of all Picton Road users well before the budget that was delivered today. Our Liberal candidate for Wollondilly, Jai Rowell, has been working tirelessly with the shadow Minister for Roads, Andrew Stoner, to get results for the Wollondilly and Wollongong communities. To Jai Rowell I say: Well done for keeping this Government accountable and getting results for the local community.

Wollondilly deserves a hardworking and dedicated member whose number one priority is the wellbeing of his electorate, much unlike the local Labor member, Phil Costa, who has failed to attain timely and effective improvements for Picton Road. I also say congratulations to the local community, but I urge people to exercise caution: the battle is only half won. At the time of writing this speech this morning I, like the NRMA, the Wollondilly Shire Council and the Illawarra Business Chamber, was sceptical about the proposed funding. As the *Illawarra Mercury* states, "the devil could be in the detail". Indeed, representatives from all three organisations indicated that they want to see the details of the State budget before they get too excited. What excellent advice that turned out to be! Nowhere—I repeat "nowhere"—in the New South Wales budget for 2010-11 is Picton Road mentioned. Not a word, not a single peep!

We have been told that as of this Monday a major three-year, $25-million upgrade has commenced on Picton Road to improve safety and infrastructure, comprising shoulder adjustments, concrete barriers, road resurfacing, improved signage and line marking. Surely this kind of announcement is one to brag about, so why the tight lips? The failure to mention the Picton Road upgrade in the budget effectively means that this incompetent State Labor Government can wash itself clean of any deadlines and financial responsibility. It equates to a lack of transparency that leaves concerned Picton Road users and local residents in the dark.

How much of the mysterious $25 million is new funding and how it will be distributed remain a mystery to all those who have fought so hard to get it in the first place. How long will it take until real upgrades and improvements are made? On what basis was the type of upgrade chosen, and will upgrades be prioritised based on the most problematic areas? It seems to me that this Labor Government is more concerned with protecting its own electoral prospects than with infrastructure delivery for people of the Illawarra. It is simply making flaky promises with minimal accountability. The failure to mention Picton Road upgrades in today's budget only heightens my scepticism about the Government's ability to implement the necessary upgrades and improvements to ensure that no more lives are lost on Picton Road.

CHRISTIAN PERSECUTION IN PAKISTAN

Reverend the Hon. FRED NILE [10.21 p.m.]: I have received an appeal for help from the founder and president of the Pakistan Christian Rights Organization, who has provided me with some alarming facts. He indicates that according to Christian non-government organisations and para-church missions there are about 20 million to 22 million Christians living in different parts of Pakistan. The founder of Pakistan, Muhammad Ali Jinnah, in a 14-point declaration stated that minorities were to be free to profess their religion in Pakistan. The declaration also guaranteed a 5 per cent quota for minorities in government and semi-government jobs and opportunities for admission to professional, academic and other higher education institutions.

Christians played a significant and positive role in the establishment of Pakistan and voted for it in the Boundary Commission. Since gaining independence in 1949 until the death of the first Prime Minister, Khan Liquate Ali Khan, the promises made to the Christian community were honoured. However, after 1956 their rights were gradually eroded. Their darkest time was in 1973, when Christian institutions and medical centres were taken over by the Government and job discrimination emerged. Even educated Christians were losing their jobs. The Christian job quota in the government sector was also abolished under the Islamic Republic Constitution. The Pakistan People's Party Government also revoked the 5 per cent quota for Christian students and missionary schools, colleges and hospitals were nationalised. Christians were banned from holding any commanding post in the armed forces or from heading any government or semi-government body in Pakistan. These were very serious limitations on the ability of Christians to play an equal role in the nation.

The 1985 eighth amendment to the Constitution was a major setback for Christians when, under Presidential Order No. 4 issued by the military ruler Zia Ul Haq and the Prohibition and Hudd ordinance, Islamic laws were imposed on minority groups. Islamic laws of evidence and compensation and blasphemy laws were also introduced. These Islamic laws opened the doors to religious terrorism. The laws were implemented so slowly that the Christian community became aware of them only when their members were first arrested under blasphemy laws in Pakistan in 1990. The worst incidents of Christian persecution occurred in 2002, when dozens were arrested and a few were sentenced to death. Churches were also attacked by Muslim militants, who killed more than 50 Christians. Many attacks occurred across Pakistan, and Christians throughout the country were afraid for their lives.

A recent incident in Gojra saw the loss of seven lives and more than 112 houses destroyed. It was a clear demonstration to Christians across the world that the Government had failed to control the mob. The Christian elders and others informed government officials that their lives were in danger. However, the local government and police administration ignored them and took no action. That was not a new response. They let the mob burn down the Christians' homes and kill them. A human rights leader is calling on Australia to do all it can to support the Christians in Pakistan and free them from discrimination. He wants Australia to be ready to provide refuge for Christians from Pakistan. We will continue to pray for the Christians of Pakistan that they may eventually have the same freedoms and rights as every other citizen of Pakistan.

TRIBUTE TO DAWN DAVIS

The Hon. TONY CATANZARITI [10.26 p.m.]: I speak tonight to recognise the lifetime contribution of the late Dawn Davis to the Australian Labor Party and the Culcairn community. Dawn was known throughout

the Riverina not only for her passion for our great party but also for her tireless work volunteering for the Culcairn Health Service. She appropriately received accolades and awards for her community service and her staunch support of Labor values. Recently I was honoured to present a special award recognising her service to the Labor Party to her husband, Ted, and daughter Robyn.

A member of the Australian Labor Party for 30 years—25 years of those as the Culcairn branch president—Dawn was an inspiration to others. Whether it was raising much-needed funds to help keep the local branch solvent or letterboxing community information, Dawn was ready, willing and able. As many know, there would not be a person who showed an inclination towards solid Labor who would not suddenly find themselves in possession of an application form to join up or, at the very least, to contribute some of their money, or both. I and many other representatives and office-bearers of the party have benefited from her generosity and work ethic. It is people like Dawn who make me proud to say I am a member. Culcairn branch secretary David Gilmore was right on the money in his description of Dawn when he said:

> Culcairn is a small but proud branch with a long history; Dawn made a significant contribution to our branch which we will never forget.

He also said that Dawn was a very staunch, passionate and generous member of the Culcairn branch of the Australian Labor Party. I could not agree more. Dawn will always be fondly remembered by her fellow travellers and even by those who may not have shared her political views. As members know, there are members like Dawn throughout New South Wales: people whose only interest is to serve their communities in the best way they know. Because of their grassroots commitment our party remains strong. That is demonstrated week in and week out by their desire to make things right for everyone in the area, not just a few. It is also the result of their desire to ensure that our party remains focused on the ground, giving people like me the feedback necessary to represent them effectively. It is from people like Dawn that I draw inspiration. Unlike our city cousins, our communities are close. We rely on each other and draw strength from one another in times of hardship and sorrow. It is with this in mind that I extend to Dawn's family my heart-felt condolences and also let them know that they can rest assured that I and many others in the Labor Party will be forever indebted to Dawn.

CESSNOCK PLANNING

The Hon. TREVOR KHAN [10.29 p.m.]: Tonight I raise issues relating to Cessnock City Council. In September 2008 the community of Cessnock made the insightful decision to change the make-up of its elected representatives on Cessnock council. After years of Labor domination of the council, the electorate voted and in consequence changed the make-up of the council to one comprising four Labor Members, two Liberal members, two Greens members and five Independent members. In mid 2008, prior to the election of the current council, the then four non-Labor members of the council made several complaints to the Department of Local Government, in consequence of which an investigation was launched under section 430 of the Local Government Act into the operation of the council.

It is quite plain that the concerns of the non-Labor members of the council about how the council had operated up to that point were shared by the electors when they threw out the Labor-dominated council. As members are aware, as a result of recent calls for papers, documents have been produced by the Department of Planning. Amongst the documents produced is an attachment to an email in which the following observation is made:

> During the period April 2008 to February 2009, an investigation into Cessnock City Council was carried out under section 430 of the Local Government Act 1993. The investigation was in response to serious concerns regarding Council's performance and continued capacity to meet its responsibilities under the Act.

The email further stated:

> It appears from the information provided that Council has made significant progress toward completing the recommendations of the investigation report, as well as the recommendations of the 2006 Promoting Better Practice Review Report that remain outstanding.

It is clear that the present council has made progress in remedying the many years of Labor maladministration. The councillors are justified in believing that their efforts have achieved significant progress in lifting the performance of the council as a whole. It therefore comes as a surprise to them, and indeed the community of Cessnock, that the Minister for Planning has recently written to the council stating:

> I remain concerned that the actions taken by Council to date have not addressed the issues of concern that have been repeatedly identified by the Department, particularly those related to various draft Local Environment Plans for release areas and the City-wide Cessnock draft comprehensive LEP.

The Minister invited the council to provide within 21 days a written submission outlining the reasons why he should not appoint a panel. The council had a mere 21 days in which to respond to a letter that did not detail any of the complaints that had been made against it. This council was given 21 days to respond when this State Labor Government has been prepared to accept years of maladministration when the council was Labor dominated. The Minister and his department clearly have not done their own homework in relation to the complaints. What is now clear is that all the development applications forming the basis of the complaints were commenced prior to the new council being elected in 2008. Indeed, four were commenced in 2006 and another four commenced in 2005.

What seems clear is that Cessnock council is doing its determined best to remedy problems created prior to the last local government elections. It is not surprising that to remedy past mistakes takes time. Given the history, it is not surprising that steady progress has been made but some matters still need to be addressed. However, what deserves condemnation is that in the lead-up to the next State election it appears that this State Labor Government has decided that in order to create a distraction from its own maladministration it is now seeking to make the council the scapegoat.

LEARNING DIFFICULTIES

Reverend the Hon. Dr GORDON MOYES [10.33 p.m.]: I have often spoken of the needs of people with dyslexia. Tonight I am pleased to note some significant developments. Children with dyslexia come from one in every seven families. Recently I visited many public schools to examine what is happening with these children. Children with learning difficulties may seem bright because they can talk well and have good ideas, but they cannot put these ideas down on paper and ultimately do not do well at school. Children with learning difficulties may find it hard to write, to read, have poor handwriting, take longer than other children to finish their work and frequently become disruptive, distracted or fidgety.

Learning difficulties do not happen because of low intelligence or poor teaching. Failure to learn to read can have serious consequences. I just mention that in my experience as a parole officer I found that more than 80 per cent of all prisoners suffered from dyslexia. The response of Family First New South Wales was encouraging. The party made the first priority in our policy platform to support practically families with children with dyslexia and learning difficulties. We wanted to make a difference but we could not do it on our own. We did not want to be like other minor parties that constantly complain about the state of things and warn constantly of dire consequences, thus creating fear in the hearts of many elderly and timorous people. We wanted to do something practical and helpful. Therefore, an incredible networking process took place. I had asked Reverend the Hon. Fred Nile, the leader of the Christian Democratic Party, to introduce a bill into the House but nothing happened over a year or more, with no sense of urgency. I decided to move it on and started negotiating with other parties and members of Parliament.

The Opposition agreed to support the bill and appointed two members to lead the charge. The Greens and the Shooters Party agreed, then the Government agreed. Eventually it was passed unanimously in the upper House. I then negotiated with leaders of all parties and discussed it with the then Premier, Nathan Rees, who backed the proposal, and the two education Ministers who saw its passage through the lower House. Thus the private member's bill passed both Houses unanimously. I then spoke with the Treasurer about the need for funding and, at a difficult time of severe budget cutbacks, $10.9 million was allocated to allow 286 additional trained special needs and learning difficulties teachers to be placed in public schools. I had further discussions with Mr Coutts Trotter and Mr Bryan Smyth King of the Department of Education and Training. I then visited and met with principals and parents and citizens in schools across the State.

Instrumental to the passing of this legislation was Mr Jim Bond, a dyslexia sufferer who has campaigned in this House for more than 20 years. With tenacity and passion, Mr Bond assisted in getting a private member's bill passed through the New South Wales Parliament. I stressed to Mr Bond the importance of using assistive technology for himself. So he enrolled as a student at Macquarie University, and for the past two years he has been working on a degree in political science, greatly helped by Sharon Kerr, the Director of Macquarie University accessibility services, and Dr Michaela Baker. He has now progressed to year two and has earned credits and distinctions along the way, which is remarkable for a man who cannot read and write. We approached Macquarie University's Professor Max Coltheart, who offered to train, without cost, teachers in public schools which had no budget for that teaching. He did not allow any problem to stop the progress towards helping children with learning difficulties.

Then in 2010 the Department of Education and Training, through its information technology department, designed an online course to train teachers. I was privileged do a trial access in the past month or

so. To date, 1,300 public school teachers in New South Wales have registered and expressed an interest in undertaking the three-month training program during this year. Helping teachers is an important way on the program we called Write to Read. To enable children to speak, read and understand mathematics, teachers must understand technology. So Family First devised a network plan to circumvent the Government's budget restrictions, and we did so. I am pleased to say that with the help of Clubs New South Wales we have now presented $70,000 to public schools in the Hunter and on the Central Coast and $55,000 to schools in the Macquarie area. [*Time expired.*]

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

Motion agreed to.

The House adjourned at 10.38 p.m. until Wednesday 9 June 2010 at 11.00 a.m.