

# LEGISLATIVE COUNCIL

Wednesday 9 June 2010

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**The Deputy-President (The Hon. Kayee Griffin)**, in the absence of the President, took the chair at 11.00 a.m.

**The Deputy-President** read the Prayers.

## WORKERS MEMORIAL DAY

**Motion by the Hon. Ian West agreed to:**

1. That this House notes that:
  - (a) 28 April is the International Day of Mourning for Workers, or Workers Memorial Day,
  - (b) this is a day to mourn, honour and pay tribute to all workers killed at or by work,
  - (c) a workplace illness or fatality can have a dramatic impact on families, communities and society, and
  - (d) a collaborative approach to workplace safety is the best way to reduce the incidence of death and injury in our workplaces.
2. That this House calls on both sides of politics to focus and reflect on workplace illness, injury and death and their causes.

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business items Nos. 228, 233, and 256 outside the Order of Precedence objected to as being taken as formal business.**

## BOATING SAFETY

**Motion by the Hon. Ian West agreed to:**

That this House:

- (a) acknowledges the efforts of the Marine Teachers Association in delivering lessons on boating safety to school students,
- (b) notes the importance of the Marine Teachers Association in promoting boating safety,
- (c) notes that the work of the Marine Teachers Association has approximately 120 members in high schools across New South Wales, and
- (d) commends the ongoing work of these teachers in providing a holistic approach to marine studies.

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 275 outside the Order of Precedence objected to as being taken as formal business.**

## UPPER HUNTER AND LITHGOW COALMINING

**Ms LEE RHIANNON** [11.05 a.m.]: I move:

1. That this House notes that:
  - (a) health professionals and community groups in the Hunter region are seeking a comprehensive population health study to investigate the possible links between the region's coalmines and power plants and poor health outcomes in the area,

- (b) on 12 April 2010 the ABC *Four Corners* television program exposed the extent of community concerns about the impact of coalmining and coal-fired power station pollution on human health, including increased respiratory illness in children and a possible cancer cluster in the heavily polluted mining town of Singleton,
  - (c) open cut coalmines in the Upper Hunter pollute the region with coal dust and toxic chemicals, with industry figures released last month showing mines emitted 18 million kilograms of dust, 7.4 million kilograms of nitrogen oxides and 4.9 million kilograms of carbon monoxide around Singleton in 2008-09, and
  - (d) NSW Health issued a report on 21 May 2010 analysing existing health data for the Hunter region which draws worrying conclusions and underlines the need for a comprehensive, independent population health study and better pollution monitoring and prosecuting systems for the coal and power industries.
2. That this House notes that:
- (a) local environment groups in the Greater Lithgow area have long expressed their concerns about the cumulative impact of open cut coalmining and the Mount Piper and Wallerawang power stations, with associated fly-ash dumps, on local residents' health,
  - (b) residents are concerned that coalmining and power industries in the Greater Lithgow area, operating close to residential areas, have created pollution which may impact negatively on human health, in the form of airborne, soil, ground and surface water pollution,
  - (c) coalmines in the Lithgow region are not complying with pollution licences and the Environmental Protection Authority (EPA) is failing to follow through with prosecutions, and
  - (d) repeated calls for an EPA in Lithgow to help ensure proper pollution monitoring and reporting have been ignored.
3. That this House calls on the Government to:
- (a) restore its faith with the Upper Hunter community by agreeing to design and undertake a comprehensive independent population health study to assess the impact of coalmining and coal-fired power stations on the health of residents in the Hunter region, and any impact on the local water supply and food chain,
  - (b) extend NSW Health's investigation of the link between the coal and power industries in the Upper Hunter and poor health outcomes to the Greater Lithgow area,
  - (c) ensure adequate air quality monitoring networks in the Upper Hunter and Greater Lithgow areas, that can measure particles to 2.5 microns, and can test and analyse the composition and toxic properties of dust pollution in these regions,
  - (d) make the findings of the health study and all pollution monitoring and any pollution testing data readily available to the public in an accessible format via the internet, and
  - (e) establish permanent and well resourced EPA offices in the Upper Hunter and Lithgow regions to investigate and monitor coal mining and coal-fired power related pollution.

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

**Motion negatived.**

### **BUILDING AUSTRALIA FUND**

**Ms LEE RHIANNON** [11.06 a.m.]: I seek leave to amend Private Members' Business item No. 300 outside the Order of Precedence for today of which I have given notice by omitting "14 days" and inserting instead "21 days".

**Leave granted.**

**Motion by Ms Lee Rhiannon, as amended, 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 all submissions for funding from the Building Australia Fund made by the Government to Infrastructure Australia in 2008 and 2009 in the possession, custody or control of the Premier or the Department of Premier and Cabinet, and any document which records or refers to the production of documents as a result of this order of the House.

### **PETITIONS**

#### **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. Fred Nile**.

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business Notice of Motion No. 1 postponed on motion by the Hon. John Hatzistergos.**

**Government Business Order of the Day No. 1 postponed on motion by the Hon. Tony Kelly.**

**COMMUNITY RELATIONS COMMISSION AND PRINCIPLES OF MULTICULTURALISM  
AMENDMENT BILL 2010****Second Reading**

**Debate resumed from 2 June 2010.**

**The Hon. JOHN AJAKA** [11.11 a.m.]: At the outset I indicate that the Opposition does not oppose the bill. The object of the bill is to amend the Community Relations Commission and Principles of Multiculturalism Act 2000, which is referred to as the principal Act, to incorporate recommendations arising from the statutory review of the principal Act that was carried out by Ms Irene Moss, AO, in November 2006. There are five main provisions of the bill. Firstly, the bill restates the principles of multiculturalism and includes the principle that all individuals should demonstrate a unified commitment to Australia, its interests and future, and should recognise the importance of shared values governed by the rule of law within a democratic framework. Secondly, the bill clarifies the objectives of the Community Relations Commission and includes the objective of promoting the principles of multiculturalism.

Thirdly, the bill expands and clarifies the functions of the Community Relations Commission to include research and facilitate consistency across government agencies on issues associated with cultural diversity. Fourthly, the bill extends the time within which the Community Relations Commission's annual report on the state of community relations can be made, and changes the audit and financial reporting obligations of the commission. Fifthly, the bill makes some miscellaneous amendments, such as the appointment of an acting chairperson of the commission when the chairperson is not available. The principal Act currently sets out four principles of multiculturalism. While the review and the submissions received by the review endorsed the principles of the Act, some submissions proposed that the value of a shared commitment to Australia should be cited earlier in the principles statement. The bill amends the principal Act to reflect the views set out in the submissions.

The bill amends the objectives of the Community Relations Commission stated in section 12 of the principal Act to link the general goal of social enrichment from cultural diversity with the commission's practical task of promoting principles of multiculturalism. The review recommended expansion of the functions of the commission to enable it to undertake proactive strategies relating to community harmony. In this regard the bill amends section 13 (1) (c) of the principal Act. The amending provision states:

- (c) to research or investigate and report to the Minister on any matter relating to its objectives that the Commission considers appropriate or that the Minister refers to the Commission for research or investigation and report.

The bill also amends the Privacy and Personal Information Protection Act 1988 to overcome difficulties encountered in the provision of translation and interpreter services. Under the current functions of the Community Relations Commission, the commission makes recommendations to the Anti-Discrimination Board on matters relating to discrimination and racial vilification. The bill amends the principal Act and the Anti-Discrimination Act 1977 so that the commission has an onus to refer matters to the board, and the board has a responsibility to investigate matters referred to it by the commission.

The bill amends the deadline for the provision of the commission's report on the state of community relations in New South Wales from March to April. This is consistent with similar legislation in other Australian States and was a recommendation of the review. In conclusion, the Act provides for the appointment of persons to act in place of the chairperson of the commission in the chairperson's absence, but that person will not preside over the commission's meetings or vote. As I indicated at the outset, the Opposition does not oppose the bill.

**The Hon. MARIE FICARRA** [11.15 a.m.]: I support the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010. The bill amends the Community Relations Commission

and Principles of Multiculturalism Act 2000. I am pleased that the bill strengthens the principles of cultural diversity as the policy of the State and facilitates the work of the Community Relations Commission by securing the policy objectives of the Act. The bill seeks to ensure the functions of the commission include proactive research to identify potential issues relating to community harmony, and better facilitates the leadership role of the commission as a coordination point for whole-of-government responses to emerging issues relating to cultural diversity. The bill implements the recommendations made by Ms Irene Moss, AO, who is a former New South Wales Ombudsman and Commissioner for the Independent Commission Against Corruption.

Coming from an Italian-Australian background and having participated in so many multicultural events across the State over the past 33 years, I strongly believe that legislation such as this, to strengthen the principles of multiculturalism, is very important. I take this opportunity to acknowledge the Attorney General, who is present in the Chamber, and thank him for his generous donation of \$10,000 to the Italian National Day celebrations that all Australians enjoyed last Sunday. It was a great event. As legislators we must actively promote cultural, racial and religious tolerance. As Australians we do this by promoting respect, fairness and a sense of belonging for everyone. According to the 2006 census, more than 22 per cent of the Australian population were born overseas and almost 14 per cent of the population were born in non-English speaking countries. Almost 16 per cent of the population, which is more than three million people, speak a language at home other than English. The top 10 languages spoken at home are Italian, Greek, Cantonese, Arabic, Mandarin, Vietnamese, Spanish, Filipino and Tagalog, German and Hindi.

I am pleased that this bill seeks to ensure the commission's functions to include research matters related to the objectives of the commission. Interestingly, the 1995 and 2003 Australian surveys of social attitudes found majority support for some assimilationist views but did not necessarily indicate a rejection of multiculturalism. I feel very heartened that the public opinion poll taken after the Cronulla riots found that 81 per cent of the community supports multiculturalism. Clearly, sensible people can distinguish between the problems of binge drinking and intolerance, and place the correct value on inclusiveness of cultures in our society.

I will take a moment to reflect on our history following the 1978 Galbally report on migrant services. The Federal Government adopted multiculturalism, which recognised the right of migrants to maintain their cultural identities. It encouraged and assisted migrants to do so and promoted equal opportunity and access to services. In late 2006, the Government decided to abandon the term "multiculturalism". In January the name of the Department of Immigration and Multicultural Affairs was changed to the Department of Immigration and Citizenship. At a State level, in 1983 the New South Wales Government introduced the Ethnic Affairs Policy Statement Program, which required all government agencies to prepare detailed plans aimed at improving their ability to deliver services to a culturally diverse society. New South Wales was the first State to adopt multiculturalism as participation and equality of opportunity.

I am proud to say that in 1993 the John Fahey Government introduced the New South Wales Charter of Principles for a Culturally Diverse Society. The Ethnic Affairs Commission Act 1979 was amended to give effect to this reporting and monitoring framework and to give legislative recognition to the principles of cultural diversity outlined in the charter. In 1999 the Government changed the title of the Ethnic Affairs portfolio to the Citizenship portfolio and replaced the Ethnic Affairs Commission with a new Community Relations Commission. The new Act restated the principles of cultural diversity as principles of multiculturalism.

Apart from paying tribute to the excellent work of the Community Relations Commission, under the direction of its hardworking and respected Chairperson and Chief Executive Officer, Mr Stepan Kerkyasharian, I also pay tribute to the Diverse Australia Program, which is a bipartisan Australian Government initiative that evolved from the Living in Harmony Program, which was established in 1998. It is primarily a community-based educational initiative for all Australians and aims to address issues of cultural, racial and religious intolerance by promoting respect, fairness, inclusion and a sense of belonging for everyone. The Diverse Australia Program provides funding, education and information to help organisations create a spirit of inclusiveness and helps ensure that all Australians are treated fairly regardless of their cultural background or circumstance.

The amendments to the objectives of the Community Relations Commission are important. I believe migrants have the right to maintain their cultural and racial identity, and it is clearly in the best interests of our nation that they should be encouraged and assisted to do so if they wish. Provided that ethnic identity is not expressed at the expense of society at large but is blended into the fabric of our society by the process of multicultural interaction, then the community as a whole will benefit substantially and its democratic nature will

be reinforced. I reject the position that cultural diversity necessarily creates divisiveness. Rather, I believe that hostility and bitterness between groups are often the result of cultural repression. It is always sad to observe that some parents and their children have drifted apart because of what is referred to as a cultural gap. In these cases the children at school or work observed that the way of life of their parents was quite strange to their colleagues and was sometimes the object of shame and exclusion. Rather than be seen as someone who is odd or different, the children rejected their parents' culture and attempted to take on another more acceptable identity.

The truth is that there is always room to recognise our cultural roots and to be proud of them whilst adopting all the wonderful values of being an Australian citizen. There are many benefits arising from a multicultural society. The artistic, intellectual and other attributes of migrant cultures have enriched Australia. If our society continues to develop multiculturalism through the broad concept of community education, it will gain much that has been lost to other nations. Multiculturalism should always embrace civic duty, cultural respect, social equity and productive diversity.

Citizenship means membership of a harmonious linguistically, ethnically, religiously and racially diverse and inclusive society, which celebrates cultural diversity and at the same time emphasises shared civic values and adherence to the principles of democracy and the rule of law. It should always be stressed that while all Australians have the right to express their culture and beliefs, first and foremost, all Australians have the civic responsibility to support the basic institutions and values of the Australian community. A united and harmonious Australia built on the foundations of our democracy will continue to thrive if it develops its continually evolving nationhood by recognising, embracing, valuing and investing in its heritage and cultural diversity. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [11.22 a.m.]: On behalf of the Christian Democratic Party I am pleased to support the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010. This bill will implement recommendations made by the report of the review of the Community Relations Commission and Principles of Multiculturalism Act 2000, known as the Community Relations Commission Act. Some years ago I was pleased to chair the inquiry into multiculturalism, and the Government implemented many of the recommendations of that inquiry. I am pleased that the principle of multiculturalism has been set out in item [1] (d) in schedule 1 to the bill, which states:

All individuals and institutions should respect and make provision for the culture, language and religion of others within an Australian legal and institutional framework where English is the common language.

I am pleased that the acknowledgement that English is the common language has been embodied in the legislation. I am also pleased that the Government has strengthened the legislation by elevating references to two important concepts: first, "the importance of shared values within a democratic framework"; and, secondly, "a unified commitment to Australia". They are included in the principles of multiculturalism as set out in item [1] (b) in schedule 1, which states:

All individuals in New South Wales, irrespective of their linguistic, religious, racial and ethnic backgrounds, should demonstrate a unified commitment to Australia, its interests and future and should recognise the importance of shared values governed by the rule of law within a democratic framework.

That reference to the rule of law is important because there are problems overseas, particularly in the United Kingdom, with demands to have a second level of law—what is called the Sharia law. I understand that the United Kingdom has 60 Sharia courts: The United Kingdom has two legal systems. I believe that can only lead to confusion and fragmentation, rather than bring people together in a unified commitment. I note there has been a similar call for that development in Australia, but I hope it never occurs here. It is important, as we do in this bill, to recognise that everyone in Australia comes from a different background and everyone is proud of his or her heritage, language and traditions.

In my case this recognition commenced with my Scottish ancestors on my mother's side, who are proud of their Scottish heritage, their bagpipes, kilts and so on. My great-grandfather, Sir David Clarke, was the clan chief in Wellington, New Zealand, and many of the Clarke family were members of the Wellington Scottish band. In the early days other migrant groups were proud of their traditions. The Irish were proud of St Patrick's Day, and those from an English background were proud of their British heritage, as I am. My father was born in Plymouth and came to Australia when he was 21 years of age, after serving in the horrific battles in France in World War I.

As members know, the Irish, Scottish and English traditions in those early days of Australia are acknowledged in our Australian flag, with the cross of St George representing the English, the cross of

St Patrick representing the Irish and the cross of St Andrew representing the Scottish community. Since the 1950s large numbers of people have come to Australia from Europe, including people from an Italian background, as was mentioned, the Baltic nations, the Ukraine and so on, as well as continuing migration from the United Kingdom. Now we have large communities of Koreans, Chinese, Vietnamese, Cambodians and others in Australia. I am pleased that in the evangelical congregational churches I lead we now have a large number of thriving Chinese congregational churches located in different suburbs such as Padstow, Campsie and Bexley. I have been pleased to participate in their events, as I have participated in large Korean festivals in Sydney.

I have had the privilege of being invited to Korea on five occasions to participate in the Korean culture, which has been a unique experience. It is important to provide for and protect our unique Australian heritage, as this legislation is endeavouring to do. That is one reason I raised the need for our society to be an open-faced society, to encourage everyone to show their faces, as has been our tradition, to help develop friendship, harmony and communication. I am pleased to support this bill, with that renewed emphasis on the principles of multiculturalism.

**The Hon. LYNDIA VOLTZ** [11.30 a.m.]: I support the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010. The bill facilitates the work of the Community Relations Commission in advising government in areas relating to social diversity and harmony, as well as its function in providing support to culturally and linguistically diverse communities. We are fortunate to live in a largely harmonious State where differences in language, custom, cuisine, religious belief and family structure are rightly seen as things that enliven our society and make life interesting. New South Wales has seen significant changes over the past 200 years, as successive waves of migration have brought different languages, practices and religions together to make our State one of the most interesting, vibrant and diverse places in the world.

Our diverse backgrounds give us fresh perspectives. We all now live within a network of cultures and traditions. The Government is proud of that social cohesion, and is committed to ongoing practical support of our rich cultural diversity. These objectives are not just abstract ideals: it is our social cohesion that contributes to the peace of our society. It is our web of connections with the world that stimulates our economy. It is our constant exposure to varied ways of living that drives our creative industries and embellishes our education. That is why the amendments in this bill to better facilitate the work of the commission are so important. Established by the Carr Labor Government in 2000, the commission has built a proud record of achievement in providing opportunities to celebrate our State's cultural diversity, encourage mutual respect and cohesion and assist the social integration of peoples from culturally and linguistically diverse backgrounds.

I draw to the attention of the House some of the outstanding achievements of the commission. The Community Relations Commission operates a 24-hour interpreting and translation service in more than 85 languages and dialects. The service is available to all government departments and agencies, private and commercial organisations, community groups and individuals. People from non-English speaking backgrounds whose parents do not speak English understand the importance of those services. I have heard many stories of friends and family members who have had to attend a doctor's appointment with their mother to discuss personal things such as gynaecological complaints. There would be nothing more horrifying for young boys than to hear the medical complaints of their parents but they have to go because they are the only members of the family who can speak English.

**Dr John Kaye:** It is good for them—good training.

**The Hon. LYNDIA VOLTZ:** It might be good for them but it is not good for their mothers. Those services are vital to those families. The commission administers the Community Development Grants Program, a competitive grants regime that last year distributed approximately \$1.6 million to a wide range of community initiatives from providing dedicated social workers to advise newly arrived migrants and refugees about access to government and legal services in Western Sydney, Albury, Griffith and Bega; and supporting a program where Christian, Muslim, Jewish and Hindu faith leaders educate school students about religious tolerance.

The commission has also developed and rolled out a variety of sport and recreation programs specifically designed for multicultural communities, including adult learn-to-swim program for refugees and sports tournaments in metropolitan and regional New South Wales, giving young people of predominantly refugee or new migrant backgrounds opportunities to have fun, join local clubs and learn about health and fitness. Even before the commission was established, in the previous Wran-Ferguson Government programs were provided that created opportunities for organisations such as Wogs out of Work. I remember being a

student at Birrong Girls High School in the late 1970s when *Wogs out of Work* came to our school. We gained a whole different perspective of the migrant experience. The term "wog", which was derogatory until that time, suddenly became a cultural industry with *Wogs out of Work* and *Wog Boy*. Today in the cinemas we have *The Kings of Mykonos: Wog Boy 2*. One can never underestimate how much difference that cultural exposure makes to people in understanding each other. They are great programs.

Indeed, one particular sporting project supported by the commission is of particular note and that is Football United, a soccer team made up of young Sydneysiders from refugee and new migrant backgrounds. Football United is a program established three years ago by the University of New South Wales that provides sports coaching in Western Sydney to more than 600 humanitarian refugees, immigrants, and disadvantaged youth. Many of these families have come to Australia from abject circumstances in countries ravaged by violence, civil war, and longstanding ethnic tension: places such as Sierra Leone, Burundi, the Sudan, Iraq and Afghanistan. Many sporting organisations within Sydney and across the State have teams such as the Lidcombe Waratahs, all of whose members are immigrants. It is their only opportunity to play sport. Many have come out of Villawood migration centre, where they first settle. To show how much of a role sport has had in our migration experience I recall that when I was a child my father coached Bankstown rugby union. We would always stop at the Villawood migration centre to pick up team members. There would always be a few at least from the British Isles, who we could chuck on when we were a bit short in fourth grade. Sports played an important role for a long time in the migration experience. I do not think Villawood has changed since: they still send migrants to local teams.

But through the day-to-day bonds of playing in a team together these young people are forging new friendships and changing their lives. Football United encourages social inclusion, equity and respect for cultural diversity. That is why the Government got behind the program, matching the sponsorship of \$20,000 provided by the Football Federation Australia. This will help take a team from the Football United Program to represent Australia at the Football for Hope Festival, which is part of the 2010 FIFA World Cup to be held this month in South Africa. I hope that will be replicated for the Women's World Cup. I am sure there will be a lot of support in this Chamber for having the same principle for the Women's World Cup.

**Dr John Kaye:** We will.

**The Hon. LYNDIA VOLTZ:** I hope I will be saying the same next year. Under the specialist coaching of iconic former Socceroo Craig Foster they will showcase what Australians from all backgrounds can do, and confirm that in society history or means should be no barrier to health, enjoyment and reaping the rewards of hard work. These are the day-to-day outcomes of a government commitment to the principles of multiculturalism: that children coming to this country are given the confidence to develop; that new migrants are able to express themselves and flourish as full citizens; and that society develops as it discovers the skills and capacities of its varied members. And that is what we are supporting through facilitating the work of the Community Relations Commission. I commend the bill to the House.

**Dr JOHN KAYE** [11.38 a.m.]: I speak on behalf of the Greens on the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010. This bill comes at a time when sections of communities in Australia remain under attack, in particular, the Muslim community. We need look no further than the attempt to introduce legislation into this House some weeks ago to ban the burqa, which was not about women's rights but was an attack on one particular community within Australia. It is very sad that this continues to happen because, after all, Australia is the world-leading model on how to incorporate many communities into a single society. It was the Whitlam Labor Government in the early 1970s that pioneered multiculturalism, which was taken up with enthusiasm by the subsequent Fraser Liberal-National Party Government, creating a consensus between the two—who were often found not to be in agreement—that the way forward for Australia was via recognising the value that diversity brings to this nation.

Australia has been a world-leading model of how to incorporate many communities into a single society. Success has been the creation of a society that is made up of many people from many backgrounds. More importantly, we have succeeded in constructing a society that is made up of communities of many religions, cultures, countries of origin, practices and foods. The success has been to create intellectual, social, cultural and economic growth in this society through diversity. The key to the success of multiculturalism is a conscious acknowledgement and celebration of diversity based on recognition that diversity brings cultural vigour, economic strength and social resilience. But the reasons for supporting and strengthening multiculturalism are much more than just economic utilitarianism. Multiculturalism is, at its core, the expression of human rights and social justice.

Personal completion and fulfilment for many members of our society is found in their community and its practices, and in being able to be involved in that community and those practices without fear of ridicule, without fear of discrimination, and without fear of being found to be separate or other. Respecting multiculturalism is respecting the right of individuals to enrich themselves culturally and socially and to enrich the entire society at the same time. Multiculturalism, at its heart, rejects the assimilationist view and the assimilationist past in Australia that sought to bury diverse origins and the rich lode of culture that those origins brought with them to Australia. It seeks to create a cohesive society that is made more robust by its many parts and by the celebration of each of those parts.

Multiculturalism has made Australia a richer, happier, more exciting, better fed and more fulfilled nation, yet it still has many detractors. There are many radio and print shock jocks seeking to grow their audience of fearful and narrow-minded minorities who seek to attack multiculturalism. They are working on the underlying human response to other by creating divisions that ought not be there. I quote from an article written on 26 January 2006 by *Sydney Morning Herald* columnist Miranda Devine. That date of 26 January 2006 followed the Cronulla riots. Ms Devine sought to use the riots to undermine multiculturalism and said in part:

Thanks to an epidemic of similar law and order problems in other western democracies—

of course, parenthetically, she is there referring to the Cronulla riots—

—with Muslim immigrant populations, even left-wing liberals are beginning to join the dots, and question multiculturalism.

Not true. It is a statement of non-fact in the first place, but it is also blaming the victims. It is saying that the problem with the riots was not those who were seeking to impose a 1950s model of narrow nationalism on our society but that it was the responsibility of the Muslim immigrant populations. She goes on to say later in the article:

In Australia even diehard left-wing warriors such as Phillip Adams are questioning multiculturalism.

I do not know that I would call Phillip Adams a warrior—I am not even sure I would call him diehard—but he is not questioning multiculturalism. Ms Devine bases that supposition on an interview with Emeritus Professor Jerzy Zubrzycki, who was one of the leading intellectuals who created the theoretical structure in which multiculturalism sits. The transcript shows that the debate was not about questioning multiculturalism; it was about the future of multiculturalism in a society in which there are a large number of tensions. I turn to another favourite journalist of mine, Piers Akerman, writing in the *Daily Telegraph* on 28 September 2006. He was a bit late with the Cronulla riots—but Piers often is. He wrote:

That there seems a surprising unanimity of thought about what it is to be an Aussie, is to be applauded. It may mean that the multiculturalists have been throwing their money at the wind for the past 30 years with their ill-conceived desire to construct a series of cultural enclaves, each serviced with their own cultural menus by SBS at great expense to the Australian taxpayer.

I will not attempt to deconstruct the logic in that sentence because I might do violence to a number of standing orders if I do so, but I point out first that there is a surprising unanimity of thought about what it means to be an Aussie, but that unanimity is probably not shared by Piers Akerman because what it means to be an Aussie in our society today is that you are a citizen of a multicultural society, you come from a diverse background and you bring the wealth of that diverse background to this country called Australia. When he talks about an ill-conceived desire to construct a series of cultural enclaves that is a libel against what multiculturalism is about. Multiculturalism has never been about enclaves; multiculturalism has been about networking all communities so that they communicate and give to each other. Janet Albrechtsen, another one of my favourite journalists, writing in the *Australian* in October 2006—and perhaps she was picking up on what Piers Ackerman had said before, because I am sure they read each other's columns—said:

[Multiculturalism's] basic proposition is cultural relativism: that all cultures are of equal value, none can be criticised (except for the majority one) and that encouraging integration is racist ...

The article goes on to quote from a young British commentator, Munira Mizra, who gets stuck into the concept of multiculturalism. Can we be very clear about the concept that all cultures are of equal value? I am sure that for Reverend the Hon. Fred Nile his Scottish and Irish heritage is of great value, and I was pleased to hear him say that. I am sure that other members of this Chamber value their cultural backgrounds. I value my cultural background—we all value our cultural backgrounds—but where we work as a whole, as a society, is where we can join with Reverend the Hon. Fred Nile and celebrate the Scottish ancestry of many Australians; we can join with other members of Parliament and celebrate their Lebanese background, their Greek background, their



Italian background, and in my case Russian and Portuguese and Jewish background. We can celebrate our backgrounds. The value of those cultures as a whole is not in any way questioned—as a whole, their value is huge. It is a complete misinterpretation of multiculturalism to impose on it the need to support concepts of equal value or even the value of a culture as a measurable commodity that can be compared one against another.

On the issue that encouraging integration is racist, Janet Albrechtsen has very neatly substituted the word "integration" for the word "assimilation". Integration is a complex concept and probably not terribly helpful. Assimilation, which is the white-breadisation of all Australians, is an appalling concept that would squander the mother lode of wealth, individual and collective—community and societal wealth that is brought to this country by people who come from diverse backgrounds. Integration is a complex concept and not worthy of being substituted for assimilation. If we had pursued assimilationist policies we would have inevitably ended up in a disastrous situation.

Paul Sheehan is the final journalist I wish to quote from. He wrote a piece for the *Sydney Morning Herald* in May 1996 entitled, "The Multicultural Myth". In the article he claimed that SBS television was "a metaphor for the evolving fantasy that Australia should be a cultural federation of glorious diversity". I am not sure what it is about right-wing commentators—they have it in for SBS. Perhaps they have difficulty with the subtitles on some of the movies and it is just too challenging for them. SBS is a media outlet that every Australian can access.

**The Hon. Michael Veitch:** For free.

**Dr JOHN KAYE:** Yes. They are subjected to advertisements, but I will not go there. Sadly, and it is my deficiency, I do not have a capacity for foreign languages but, like many Australians, I am enriched by the diversity of programs from around the world that one watches. To say that exposing the Australian population to global and national diversity is somehow or other an evolving fantasy that Australia should be a cultural federation of glorious diversity is absurd in the extreme. It also rejects what that glorious diversity has brought, is bringing and will bring to this society.

The Greens are proud of our commitment to multiculturalism, as I imagine are many politicians and most political parties. That commitment to multiculturalism has made Australia a deeply cohesive and successful society, and will continue to do so, despite some of the things I am about to say about this legislation, and despite the quotes I have given from some of the shock-jock journalists who belittle the profession of journalism. Despite all that, we remain confident that this is a multicultural society and will continue to be so, and it will be successful as a multicultural society. We join with all open-minded Australians in rejecting the call backwards to an inward-looking, mean-hearted Australia that comes from the microphones and pens of the enemies of multiculturalism.

The bill seeks to amend the Community Relations Commission and Principles of Multiculturalism Act 2000 that was introduced by the Carr Labor Government. It is instructive to read the *Hansard* of the furious debate that took place in this Chamber in June 2000 on the introduction of the bill. That bill changed the name of the Ethnic Affairs Commission to the Community Relations Commission and effectively, but not entirely, removed the word "ethnic" from the State's legislation. If members cast their minds back to 2000 they will recall that it was a time when One Nation, with its policies of division and racism, was finally on the electoral wane. It was observed in the Chamber at the time by my colleagues Ian Cohen and Lee Rhiannon—and it seems to be true—that the Carr Labor Government was looking for a 7 per cent boost in the polls. That 7 per cent was the vote of the then waning One Nation party. That 7 per cent was gained by a disgraceful act by Pauline Hanson and her agenda during the previous State election to divide the community and win votes for herself. The Carr Government was disgracefully looking to replay the Pauline Hanson agenda to help it win the 2003 election.

The perceived success of the Pauline Hanson agenda led to a mistaken perception that there was in society a constituency for racism. Yes, there probably is, but it is very small. Overestimating that constituency will be at the expense of the future of this society. Overestimating that constituency put at risk the unravelling of the institutions of multiculturalism. It should be remembered that the last census showed that 24 per cent of Australians were born overseas. The 2000 bill, which is now the Act, introduced a number of euphemisms. It changed "ethnic" to "community relations", and while "multiculturalism" survived in a few places it was largely undermined. The danger of that legislation was that it would undermine the bipartisan, indeed multi-partisan, glue that held Australia together.

The bill before us goes one step closer to finishing the job for Labor. The second reading speech said, "The bill strengthens the principles of multiculturalism as the policy of the State." Actually it does precisely the opposite. It removes one of the last remaining references to "ethnic" in the Act. This is truly a case of cleansing

the ethnic from the legislation and the next step will clearly be to delete all references. It introduces a new form of jingoism. It dances to the tune of the shock jocks by introducing a new principle in new section 3 (1) (b), which says that all individuals in New South Wales, irrespective of their linguistic, religious, racial and ethnic backgrounds, should demonstrate a unified commitment to Australia, its interests and future and should recognise the importance of shared values governed by the rule of law within a democratic framework.

New section 3 (1) (b) specifically demands of all Australians, but in particular those who come from non-Anglo Saxon, non-Protestant or Catholic linguistic, religious, racial and ethnic backgrounds, that they demonstrate their nationalism. Demanding a demonstration of nationalism has no place in any democracy, least of all a modern democracy such as Australia. It is demeaning of people from diverse communities in a not-so-subtle accusation of disloyalty. By insisting as a principle that people demonstrate their unified commitment the subtext is that they are currently not doing so: the subtext is that they are currently disloyal. This is the new McCarthyism—do not distrust the Communists, distrust the non-Anglo, for they must show they are truly loyal, unlike the flag-waving, booze-soaked hooligans who show up at music events and insist on people respecting the flag and who, of course, are the true patriots! Let us be absolutely clear: Patriotism is the last refuge of scoundrels. Being loyal to one's country and being committed to the commitments of that country is an ethical duty. But jingoism and unreasonable displays of patriotism are truly scandalous.

It is interesting that the Minister in his second reading speech changed "unified commitment" to "unifying commitment". Perhaps it was a Freudian slip, a subconscious desire by the Minister to avoid the outdated chauvinism that the formulation in the bill presents. I think better of the Minister for not being able to bring himself even to utter those words and for changing them to a "unifying commitment", which is certainly better than a unified commitment. This bill presents the new euphemisms of "community harmony" and "inclusive". The former is a nod in the direction of the racial slanders about ethnic crime and the latter is an implicit allegation against multiculturalism that it is not in and of itself open to all and welcoming of all people. While the remainder of the bill is sensible, the move away from a commitment to multiculturalism is simply unacceptable. There is no doubt that the Minister or the Parliamentary Secretary will deny this and attack the Greens for saying so, but the language is there in black and white. The language is very clear: it deletes one reference to ethnic communities—

**The Hon. Christine Robertson:** You have to spoil a good speech.

**Dr JOHN KAYE:** I acknowledge the interjection. The rest of the bill is largely sensible. It contains provisions to allow the Community Relations Commission to undertake proactive research; sensible provisions to facilitate translation services, health records and the Anti-Discrimination Board; and deals with a variety of administrative matters that will facilitate the operation of the Community Relations Commission. These are useful changes and the Greens raise no objections to them. However, the bill itself remains flawed. If the key amendments are not passed then the Greens will have no choice but to oppose the bill. We cannot sit by and allow multiculturalism and the principles on which it is based to be watered down in the face of pressure from the backlash brigade. While it is totally sensible to talk about Australia as an entity and as a nation, it is not sensible to use legislation such as this to suggest that in some way or other the communities that make up Australia are disloyal.

**The Hon. SHAOQUETT MOSELMANE** [11.59 a.m.]: I support the Community Relations Commission and Principles of Multiculturalism Amendment Bill 2010. The Community Relations Commission Act recognises and values the different linguistic, religious, racial and ethnic backgrounds of the residents of New South Wales and promotes equal rights and responsibilities for all. The bill will strengthen the principles of multiculturalism in new section 3 (1) and (2) by elevating reference to the importance of shared values within the democratic framework. The reference to shared values relates to multicultural values—it is not specific to any ethnic or religious group—that Australians respect, believe and support. The bill will also amend section 13 (1) (f) and (g) of the Community Relations Commission Act to better recognise and facilitate the commission's role in coordinating—

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

## QUESTIONS WITHOUT NOTICE

### HOUSING PURCHASE STAMP DUTY

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Treasurer. What are Treasury's forecasts for the number of additional households that will benefit from the off-the-plan stamp

duty concession, including the specific number to be induced by this policy? How many people will benefit from the 25 per cent cut? How many people will benefit from the concession for those aged over 65? Has the Treasurer's department modelled the suburbs and regions where most stamp duty concessions will be offered—those suburbs with the highest proportion of new residential properties?

**The Hon. ERIC ROOZENDAAL:** I am pleased to respond to the member's question, which I think underpins the great interest throughout the community in the bold new initiative by the New South Wales Government: the home builders bonus. It might interest members to know that it is an Australian first. This Government has cut stamp duty to zero for dwellings under \$600,000 purchased off the plan in the pre-construction stage. We have done that to assist in the presale of properties to help builders get important funding so that they can get their projects accepted. This Government's bold new initiative does not apply only to new dwellings. If somebody purchases a new dwelling that is already under construction or that is newly completed he or she will receive a 25 per cent stamp duty discount.

It does not stop there. Let us talk about those who are aged over 65. At many of the community meetings I have attended I have sat down and talked to older Australians, in particular, who have raised a problem with me. Older Australians are living in large family houses. They are empty-nesters as their children have left, but they do not want to lose value when they downsize their homes. They see stamp duty as an obstacle to downsizing. This Government has listened to them and has acted. There is zero stamp duty for those aged over 65 who move to a new dwelling valued at up to \$600,000. These are bold initiatives.

**The Hon. Michael Gallacher:** Point of order: When the Treasurer commenced answering my question he said that he was happy to respond. Could he please respond to the specific question he was asked relating to the number of people who would benefit from these concessions?

**The PRESIDENT:** Order! The Treasurer will continue to be generally relevant in his answer.

**The Hon. ERIC ROOZENDAAL:** Let us talk about the people who will benefit: bricklayers, cement renderers, carpet layers, roofers, landscapers, electricians, plumbers, carpenters, cabinetmakers, tilers, gardeners—you name it. New constructions and new dwellings have a massive multiplier effect throughout the economy—it permeates throughout the economy. What else do people do after they have moved into a new dwelling? Once they have installed all the fittings, they go out and buy their furniture and they go out and buy—

**The Hon. Michael Gallacher:** Point of order: I again ask you to direct the Treasurer to answer the question I asked relating to the number of people in those categories who would benefit.

**The PRESIDENT:** Order! That is not point of order. The only point of order that I would consider is on relevance. The Minister will continue his answer.

**The Hon. ERIC ROOZENDAAL:** I can understand that members of the Opposition are uncomfortable. They have wrecked their policies. The Leader of the Opposition is trying to obtain as much information from me as Opposition members have no policies. All they ever do is talk down the economy. They have no response other than that. In the first question of the day all Opposition members can do is talk down this Government's best initiative. There are many other initiatives in the budget. Members of the Opposition should ask me about them.

## STATE ECONOMY

**The Hon. MICHAEL VEITCH:** My question is addressed to the Treasurer. Would the Treasurer update the House on the budget result and the latest economic forecast for New South Wales?

**The Hon. ERIC ROOZENDAAL:** I know Opposition members will not like my answer, as it is more good news for the economy and more good news for the people of New South Wales. Every time there is good news for the economy Opposition members do not like it. They want to talk down this State. Yesterday in the other place I was pleased to deliver the 2010-11 Keneally Government's budget—a budget that invests in what is important to New South Wales families: essential front-line services, new infrastructure and jobs. Thanks to its sound economic management, the Keneally Government will deliver for families in New South Wales. The budget sees New South Wales return to a surplus two years earlier than forecast. New South Wales is back in the black.

I draw the attention of members to the Leader of the Opposition's budget reply last year. Last year he said it was not believable that this Government could return back to the black in a period of two years. Today the New South Wales Government is back in the black two earlier than forecast, yet again proving that Barry O'Farrell and his sidekick, the canary from Manly, cannot get it right. I interrupt my answer to give members some late good news for the economy. In the midst of the budget there is even more good news. I have with me, hot off the press, the latest information on the economy. Today's figures from the Australian Bureau of Statistics, which I believe were released a few minutes ago, show that New South Wales saw a 0.4 per cent growth in the number of loans for owner-occupiers in April 2010. That does not sound like a lot, but when we look at the national average we see that this month it has fallen behind by 1.8 per cent. States such as Victoria and Western Australia saw drops in the number of loans of 0.7 per cent and 1.9 per cent respectively, and in Queensland the number of loans fell by 3.1 per cent.

Even as I stand in this Chamber the good news for the New South Wales economy continues to flow in, which proves that this State is leading the national recovery after the global financial crisis. The budget result for this year represents a \$1.1 billion turnaround and surpluses worth about \$3.15 billion over the next four years. Today we have a healthy balance sheet because of this Labor Government's long-held responsible fiscal strategy. We used periods of strong revenue growth to reduce debt and other financial liabilities. 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, and 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 now is expected to be a 3 per cent turnaround compared to the forecast of last year's budget. That represents about an \$11.5 billion turnaround in the New South Wales economy over the past year. The New South Wales economy also is forecast to grow at above-trend rates for the next two years. We are showing strength at a time when much of the rest of the world is struggling. One has only to look to Europe to see that. I am pleased to advise the House that following the release of the New South Wales budget yesterday credit agencies Moody's, and Standard and Poor's yet again confirmed the State's solid-gold, triple-A credit rating.

**The Hon. MICHAEL VEITCH:** I ask a supplementary question. Will the Minister elucidate his answer with regard to the State's triple-A credit rating?

**The Hon. ERIC ROOZENDAAL:** Standard and Poor's credit analyst Anne Hughes said:

The New South Wales 2010-2011 budget released today is consistent with triple A ... Stable A1 Plus ratings already applied to the state. The improvement in the economic outlook for NSW has seen a strengthening the State's revenue forecast since the mid-year budget update in December 2009.

Moody's Vice-President, Debra Roane, said:

Overall, the state's financial performance appears to have improved compared to last year's budget projections.

That is not all. This budget has received support from a number of quarters throughout the community. Steven Cartwright, chief executive officer of the New South Wales Business Chamber said:

I believe this Budget is a good Budget ....

It sees the Budget return to surplus and strong projections about New South Wales's future prospects for growth.

Importantly, the standing of New South Wales's AAA credit rating has been solidified by the Budget turnaround.

It seeks to create workable solutions to issues around business costs, expanding housing supply and investing in transport and infrastructure.

This budget delivers for the families of New South Wales. This is a budget that secures the State's economic future. This is a budget that ensures that as we move through the recovery phase post-global financial crisis we will get the best value and delivery for the people of New South Wales. This budget delivered an historical high of \$62.2 billion investment in infrastructure over four years: record investment in health and roads. This is a budget for the people of New South Wales to build on their economic future and for their future prosperity.

### ELECTRICITY PRICE RISES

**The Hon. DUNCAN GAY:** My question is directed to the Treasurer. Is the Treasurer aware that with last year's 20 per cent price rise, electricity customers in New South Wales will pay up to 62 per cent extra on

their electricity bills by 2013? Can the Treasurer justify this increase in light of the fact that the budget papers indicate that his Government will receive \$3.8 billion in dividends and tax equivalent payments from state-owned electricity generation, distribution and transmission companies over the next four years? Is this the State Government's version of a super profits tax on electricity consumers in New South Wales?

**The Hon. ERIC ROOZENDAAL:** It is pretty difficult to respond to a question that is full of inaccuracies and errors. Of course, if we examine the numbers, the member failed to pull out the carbon pollution reduction scheme figures. I am happy to talk about energy because, of course, one in three households will be eligible for an energy rebate, as we announced last year. More than a massive \$140 million—

**The Hon. Duncan Gay:** Point of order: My point of order is relevance. The Minister is talking about supplementary help to people. My question was about the amount of money in the super tax the Government is removing from the generators and distributors. I request that he be drawn back to the question.

**The PRESIDENT:** Order! The Treasurer will continue to be generally relevant.

*[Interruption]*

**The Hon. ERIC ROOZENDAAL:** He is the thinnest-skinned bloke in the Parliament sitting opposite trying to act tough. It is pretty funny. This budget invests \$3.9 billion to grow and upgrade our electricity infrastructure. This investment is delivering world-class reliability and security for New South Wales families and businesses. We have increased our commitment by \$557 million, or 16.6 per cent, from last year. The \$3.9 billion investment will help meet rising energy demand driven by population and economic growth. New South Wales has been able to build a world-class electricity network. This investment will be crucial as New South Wales makes the shift to a cleaner, greener economy.

This year we will see a major boost to investment in the State's regional networks with Country Energy investing nearly \$1 billion to upgrade and maintain its infrastructure. EnergyAustralia is expected to spend \$1.6 billion to build and maintain its electricity network from 2009 to 2014. EnergyAustralia expects its investment in the network will support 2,500 jobs, including 1,000 apprentices and graduates. Integral Energy's total capital expenditure is forecast to be \$531.6 million. Integral Energy will support over 250 new jobs to employ a total of 3,120 people, including 60 new apprenticeships. This includes 238 new jobs for western Sydney and 12 new jobs in the Illawarra. Country Energy's capital budget is \$934 million and it expects to employ a total of around 4,500 people with up to 100 apprenticeship positions being offered in two intakes over 2010-11.

TransGrid will expend some \$505 million in 2009-10. TransGrid employs around 1,000 people, including 74 apprentices, and expects to build on this in 2010-211 to deliver a large capital program. TransGrid continues to provide jobs across all parts of New South Wales, particularly in regional areas. Capital expenditure from the three state-owned generators is \$331.5 million. Delta will spend about \$85.2 million, Eraring Energy will spend about \$207.6 million and Macquarie Generation will spend \$38.8 million. Delta employs about 724 people, including 36 apprentices and trainees on the Central Coast, and 35 apprentices in regional New South Wales. Delta sponsors the apprenticeships through local group training organisations. Eraring Energy's capital program will employ about 550 contractors during the course of the year for the work at Eraring Power Station. Macquarie Generation will employ about 655 staff over 2010-11, including 60 apprentices. The budget includes also more than \$170 million to help customers pay their energy bills, including \$149 million for the expanded and increased New South Wales energy rebate program. From 1 July this year more than one in three households will be eligible to receive the increased energy rebate of \$145 per annum.

*[Business interrupted]*

#### **DISTINGUISHED VISITOR**

**The PRESIDENT:** I acknowledge the presence in the President's Gallery of a former member of this House, and former Treasurer of New South Wales, the Hon. Michael Egan.

#### **QUESTIONS WITHOUT NOTICE**

*[Business resumed.]*

#### **EDUCATION FUNDING**

**Dr JOHN KAYE:** My question is directed to the current Treasurer. Has Treasury conducted studies on the impact of the 0.6 per cent cut in real terms to service funding for public education? Where will the \$54.5 million in real terms cuts in public schools come from?

**The Hon. ERIC ROOZENDAAL:** Sometimes the member hits the mark and other times he just sails away into the sunset. This budget consolidates and builds on Labor's record of achievement in education.

**Dr John Kaye:** Point of order: The Minister is misleading the House. He has never before acknowledged that I have hit the mark.

**The PRESIDENT:** Order! While amusing, that is not a point of order. The Treasurer will continue his answer.

**The Hon. ERIC ROOZENDAAL:** That is the best they have.

**The Hon. Duncan Gay:** Even worse, you're the best they've got.

**The Hon. ERIC ROOZENDAAL:** You are the worst the Opposition has. This budget consolidates and builds on Labor's record of achievement in education: 15 years of reform that sees New South Wales with an education system of world-class standard, and literacy and numeracy results from our students that consistently top the nation. This year's \$14.4 billion Education budget continues that proud record and builds on our achievements in those critical learning areas. Education takes more than one-fifth of the budget and is second only to our record investment in Health. Over the next four years \$124 million will be invested in our Best Start initiative to ensure that our children begin school with an immediate focus on their literacy and numeracy requirements.

The Government is investing \$230 million over the next four years to expand literacy and numeracy initiatives, improve teacher quality and focus on schools in disadvantaged communities through our National Partnerships with the Commonwealth. That is a very important program. With Commonwealth funding included, more than \$1 billion will be spent on these initiatives in New South Wales schools over the next four years. In 2010-11, investment in education infrastructure includes \$1.2 billion under the Building the Education Revolution Program and \$46 million for information technology [IT] projects.

**Dr John Kaye:** Point of order: My point of order relates to relevance. My question was about service funding, which is recurrent funding. It had nothing to do with investment in infrastructure, which is capital funding, as the Treasurer well knows. My question specifically asked him to address the 0.6 per cent cut to service funding in public schools.

**The PRESIDENT:** Order! I uphold the point of order. The Treasurer will continue to be generally relevant.

**The Hon. ERIC ROOZENDAAL:** The budget allocates \$46 million for information technology [IT] projects and funds for eight major school building projects, such as at the Bega Public School.

**Dr John Kaye:** Point of order: The Treasurer clearly is flouting your ruling. The question was about recurrent funding.

**The PRESIDENT:** Order! The Treasurer was being generally relevant, which is what I asked him to be in answering the question. The Treasurer may continue.

**The Hon. ERIC ROOZENDAAL:** I know the Opposition does not want the Government to talk about all the money we are investing in education. Let us just think about it: \$14.4 billion is being pumped into education in New South Wales, and the Opposition wants to complain about it. Members opposite do not want to listen to what is happening at Haberfield Public School, the Homebush West Public School, the East Hills Girls Technology High School or the East Hills Boys High School, the Lisarow High School, or the Wollongong High School of the Performing Arts. They do not want to hear about what is happening with education in this State.

**The Hon. Duncan Gay:** Point of order: Clearly the Treasurer is misleading the House when he said that the Opposition—

**The PRESIDENT:** Order! That is not a point of order. The Deputy Leader of the Opposition will resume his seat.

**The Hon. ERIC ROOZENDAAL:** For 2010-11, \$42 billion in capital and recurrent funding has been provided under our Connected Classrooms initiative to provide high-speed broadband connections. We will be spending \$78 million over four years to provide schools with interactive whiteboards and videoconferencing equipment. More than \$2 billion in recurrent funding has been provided in the budget for vocational education and training, which represents an increase of \$110 million from 2009-10, and includes funding for an additional 5,850 training places at TAFE as well as an expansion of the group training program. [*Time expired.*]

#### LAND AND PROPERTY MANAGEMENT AUTHORITY

**The Hon. KAYEE GRIFFIN:** My question is addressed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Will he advise the House of how the Land and Property Management Authority will contribute to the State's economy over the next year?

**The Hon. TONY KELLY:** I thank the member for her question. I am sure that the former Treasurer will be pleased with the advances made by the Department of Lands since his retirement. The Land and Property Management Authority [LPMA] was formed in mid-2009 through the amalgamation of the former Department of Lands, the State Property Authority, the Hunter Development Corporation, the Office of Strategic Lands, the Sydney Harbour Foreshore Authority and other core government land and property functions. In 2010-11, the Land and Property Management Authority will have a budget of \$331 million. That will ensure that the authority maintains its leadership in land management and property services.

Among the highlights of the authority's budget is \$19 million in capital works for the Land and Property Information Division [LPI]. This includes funding for enhanced online service delivery. The funding is vital for the Land and Property Information Division as it is the custodian of land titles in New South Wales. As we all know, property transactions are worth billions of dollars each year to the State. It is important that the people of this State have confidence in the security and efficiency of their property titles, and in the Torrens property title system.

The Land and Property Management Authority is very active across the State and \$78.5 million has been earmarked for the Crown Lands Division, which represents an increase of \$4 million over last year's funding. This money is well spent for the people of regional New South Wales because Crown Lands looks after the State's 33,000 Crown reserves with an area of 1.3 million hectares. Its budget includes \$10.8 million for the upkeep of Crown reserves and parks, \$5.5 million for the Tweed River sand bypassing scheme, \$2.9 million for maintaining minor ports and river entrances, and \$1.3 million in grants for State parks.

As I mentioned, the Land and Property Management Authority's budget includes \$2.9 million for the maintenance of minor ports and river entrances. This expenditure is essential to provide commercial fishing vessels and recreational boating with well-maintained port infrastructure and secure port access. Additionally, as I noted, \$5.5 million has been provided for the Tweed sand bypassing project. That will ensure the entrance to the Tweed River remains open, with improved navigation and safety, which is essential to the local economy. The State Property Authority has been allocated \$31.6 million, which includes \$30.6 million for refurbishments and upgrades of existing government buildings in places such as Moree, Wollongong, Gunnedah and Sydney, and \$1 million for stage one of the Sydney Fish Market upgrade, including development of a master plan. The Sydney Fish Market will be developed into a world-class attraction and will create more employment opportunities.

The Sydney Harbour Foreshore Authority [SHFA] will spend \$38.1 million on capital works, which includes \$17.3 million for the upgrade of the Sydney Convention and Exhibition Centre, \$6.8 million for the restoration of the heritage-listed Metcalfe Bond building at The Rocks, and \$6.7 million for the upgrade of public spaces and buildings in The Rocks. Included in this year's Land and Property Management Authority budget is \$13 million in grants to assist in improving open space areas and the Western Sydney Parklands. The Hon. Rick Colless will be interested to know that \$1.9 million has been allocated to the Soil Conservation Service to replace its major earthmoving equipment. The Government places high emphasis on soil conservation policy as part of its response to impending climate change. The Soil Conservation Service contributes to environmental activities by managing and implementing soil conservation networks and consultancy services throughout the State.

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

**The Hon. TONY KELLY:** The expenditure I have mentioned represents just a few of the highlights of the Land and Property Management Authority's budget for the forthcoming financial year. The allocations will

provide the authority with the opportunity to continue to play a major role across the State in the provision of jobs and support in regional areas. I add that I am extremely embarrassed by the allocations made by the Treasurer to my portfolio. I refer members of the Opposition to Budget Paper No. 3 Volume 2 at 9-1, which shows increases in funding for 2010-11 over allocations for 2009-2010: the Department of Planning, 36 per cent; the Land and Property Management Authority, 43 per cent, and an increase of 335.2 per cent in capital expenditure; Crown Leaseholds Entity, 431.2 per cent; the Hunter Development Corporation, 43.2 per cent; the State Property Authority, 39.1 per cent, and an increase of 94 per cent in capital expenditure; the Barangaroo Delivery Authority, 110.7 per cent, and an increase of 534 per cent in capital expenditure. I am embarrassed.

**The PRESIDENT:** Order! If there any further interjections from the Opposition, I will place members on calls to order.

#### WHITE BAY NEW YEAR'S EVE CONCERT

**Reverend the Hon. FRED NILE:** I address my question to the Minister for Ageing, representing the Minister for Major Events. Is it a fact that the former Minister for Major Events, Mr Ian Macdonald, had organised a huge New Year's Eve harbourside concert for up to 80,000 people at White Bay? Is it a fact that Mr Macdonald arranged a \$300,000 taxpayers' contribution towards the success of the concert, which will be headlined by the famous entertainer, Sting? What is the future of this important New Year event, which would give Australia international publicity? Will the Minister support it?

**The Hon. PETER PRIMROSE:** I will refer the member's question to the Minister and seek a reply.

#### HOUSING PURCHASE STAMP DUTY

**The Hon. GREG PEARCE:** My question is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Will the Minister explain exactly how his budget stamp duty measures will stimulate housing availability and affordability, given that his big new tax on land transfer fees will rip an extra \$429 million from property purchases but the stamp duty concessions will return only \$140 million?

**The Hon. Eric Roozendaal:** Point of order: The question clearly contains argument and should be ruled out of order.

**The PRESIDENT:** Order! Elements of the question do contain argument. However, if the Hon. Greg Pearce were to remove them, the question would be in order. The Minister can answer the question if he wishes to do so.

**The Hon. TONY KELLY:** As the Treasurer has already pointed out, members opposite are embarrassed that we have come up with an initiative in New South Wales that will drive housing affordability in this State into the future. We have been rezoning land in western Sydney for years to try to ensure that there is housing affordability and that houses will be built. The problem is that, because of significant costs that have impeded that development, those houses are not being built. We have seen increases in house and land packages of up to 9 per cent per annum for people in western Sydney and Sydney generally. The massive package put together by the Treasurer, which attacks that issue on all fronts, includes reducing stamp duty. One big problem with new homes and construction by developers is that banks now want a massive amount of presales before they will lend money for construction. So the proposal put forward by the Treasurer is a significant one that will unlock development in New South Wales, and in Sydney in particular, to get presales agreed to so that construction can start.

**The Hon. Rick Colless:** The land transfer fees will raise more money than the Government will give back.

**The Hon. TONY KELLY:** Yes, for people with packages over \$500,000. The ad valorem land transfer fees are significant only once the amounts of \$600,000 and \$700,000 are reached. The fees will relate to less than 30 per cent of sales across the State. However, as I have pointed out to the House previously, some of that money goes towards guaranteeing the land title system against fraud. Returning to the member's question about stamp duty, that stamp duty concession is significant to the people of New South Wales. I have not heard anyone complain about it in the media today. It is strange that members opposite are the only people complaining about it.



## BUDGET INITIATIVES

**The Hon. PENNY SHARPE:** My question is addressed to the Treasurer. Will the Treasurer inform the House of the major budget initiatives in the 2010-11 budget?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for her interest in the matter because it is important. Yesterday's budget takes New South Wales forward into a new era of growth and progress. It continues to deliver the high standard of services that New South Wales families expect and deserve. The budget delivers a record \$16.4 billion investment in health and hospitals, \$14.4 billion in education and training, a record \$1.1 billion of funding for bus services and a record \$3.2 billion for rail services. Over the next four years the Government will invest \$22.3 billion in transport, putting into action the 10-year Metropolitan Transport Plan, delivering hundreds of new buses and train carriages and comfortable, air-conditioned seats across the public transport network.

We will invest more this year to fast-track public transport projects. Some \$145 million will be invested on 200 new growth buses this financial year—the first under the Metropolitan Transport Plan. We will invest \$77.6 million to purchase 100 new bendy buses and \$100.9 million on 206 buses to replace older vehicles in the State Transit Authority and private bus fleets. Some \$271 million will be spent on 74 Outer Suburban Carriages and works to enable the roll-out of the first sets of the new 626-strong Waratah fleet. Over the forward estimates the New South Wales Government will invest \$1 billion to commence work on the \$4.5 billion Western Express rail service, with new platforms at city stations; and \$1.7 billion to continue construction works for the South West rail link, due for completion in 2016. I remind members that that is \$1.7 billion to continue construction works for the south west rail link. Members opposite are still planning to commence that rail link; we are already building it.

The New South Wales Government will also invest \$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; more than \$1.2 billion for bus priority measures and new bus facilities; \$6.7 billion for passenger rail projects, including the Rail Clearways Program and 626 state-of-the-art carriages; \$56 million in cycleways; and \$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 are continuing to improve the level of care of patients in the New South Wales public health system. About 30 per cent of the New South Wales record \$16.4 billion budget will be invested in services for rural and regional areas, such as \$5.1 million to begin stage 1 of Wagga Wagga Base Hospital, which is a \$90 million project over four years; \$35.9 million in 2010-11 for multipurpose services in towns such as Werris Creek, Gundagai and Lockhart and Health One facilities including at Cootamundra and, I think, Quirindi—

**The Hon. Rick Colless:** You don't even know how to pronounce it let alone where it is.

**The Hon. ERIC ROOZENDAAL:** —and \$22.7 million over four years to refurbish and upgrade Dubbo Hospital. As soon as one starts listing rural and regional towns, the Hon. Ross Colless wakes from his slumber.

**The Hon. Michael Gallacher:** Ross Colless?

**The Hon. ERIC ROOZENDAAL:** The Hon. Rick Colless says so little and I see so little of him over there, I forget his name. I apologise. The Hon. Rick Colless should have another go. Is that his contribution for the week? Investment in mental health services across the State will increase to more than \$1.2 billion in 2010-11, including \$21 million for new or expanded mental health facilities at the Nepean, Hornsby and Prince of Wales hospitals and a Child and Adolescent Inpatient Unit at Shellharbour Hospital. This budget continues the New South Wales commitment to provide world-class education for our students, with a number of key investments.

## MEMBERS' ENTITLEMENTS

**Ms LEE RHIANNON:** I direct my question to the Attorney General. Given the recent spillage from the New South Wales Parliament of Government members Ian Macdonald and Karyn Paluzzano, who have been linked to a failure to abide by the rules governing members' entitlements and responsibilities as members of Parliament, and given concerns reported yesterday on the ABC regarding Deputy Premier Carmel Tebbutt's declaration regarding taxpayer-funded flights, will the Attorney General outline what reforms the Government

has identified are needed to the management of members' entitlements and benefits and what recommendations he will make to the Parliamentary Remuneration Tribunal to ensure that such reforms are adopted? If the Government has no plans to advocate for reforms, on what basis was that decision reached?

**The Hon. JOHN HATZISTERGOS:** People are entitled to make their own submissions to the Parliamentary Remuneration Tribunal, and no doubt Ms Lee Rhiannon has done so. Perhaps one thing the member might consider is doing away with her extra staff member.

### DEVELOPER LEVIES

**The Hon. MATTHEW MASON-COX:** My question without notice is addressed to the Minister for Planning, and Minister for Infrastructure. What is the Minister's response to Liverpool and Camden councils in Sydney's south-west growth area, which decided last night to freeze any new development consents in response to his plan to cap developer levies at \$20,000 per dwelling? Did the Minister consult with any councils when formulating his plan, given that it will deprive them of up to \$30,000 per dwelling for much-needed community infrastructure, such as local roads and parks? Does the Minister intend to fund this looming infrastructure shortfall, or does he expect ratepayers to foot the bill?

**The Hon. TONY KELLY:** These new proposals will not deprive the community of much-needed infrastructure such as parks and facilities. They will try to drive down up-front costs of housing in New South Wales. It is totally extravagant for some State councils to charge \$65,000 as a section 94 development contribution. A couple of years ago the Government put a threshold on such charges. Our new proposal is that the essential infrastructure that is needed for a development will be passed on, but not other non-essential infrastructure. In other words, community infrastructure that will benefit the whole community will be recouped through a special levy that the Independent Pricing and Regulatory Tribunal [IPART] will automatically grant to councils. It will then be a matter for each council to decide how it wants to pass on that cost.

Legitimate infrastructure under section 94 that was formerly included in the \$50,000 amount will be paid back in rates over the next 30 years. It will be council's decision whether it gets the local developer to pay that, and that will depend on the size of the development, or whether the cost is spread across the community. I spoke to organisations before the recent decision was made and I have since spoken to Blacktown council about it. Blacktown council is the largest council in the State—one in 70 Australians live within its boundaries—but from memory only 1,000 blocks of land or dwellings approved were available in the area last year and there needs to be significantly more. Blacktown council does not have one cent of debt, and today its ratepayers are paying for all the infrastructure that people will use for the next 30 years in that council area. As a former local government general manager I do not agree with that proposition. I have also met with the Genia McCaffery, the President of the Local Government Association, and Bruce Miller, the President of the Shires Association, and have further meetings arranged with councils, particularly Growth Centre councils, next week. I met with some of them yesterday and I will meet with others today.

For the information of Hon. Matthew Mason-Cox I advise that with regard to section 94 contributions, at this stage council contribution plans have got to be ticked off by the Department of Local Government. In future they will be ticked off by the Independent Pricing and Regulatory Tribunal. Any development plan approved by council since Monday of this week under the section 94 has to be ticked off by the Independent Pricing and Regulatory Tribunal. Obviously councils have not had time in a couple of days to redo their section 94 plans. We have yet to sit down with local government to work out what we consider to be essential general community infrastructure for developments. Councils have then got to submit their development applications to have them approved by the Independent Pricing and Regulatory Tribunal. Obviously there will be a lead time when councils will not be able to allocate section 94 charges—from last Monday until they get approval.

**The Hon. Duncan Gay:** What expertise does the Independent Pricing and Regulatory Tribunal have?

**The Hon. Matthew Mason-Cox:** What is essential and what is not?

**The Hon. TONY KELLY:** The Opposition should cease interrupting for one moment. It does not matter whether a council made a decision yesterday not to approve an application; it cannot until that is settled.

### FEMALE OFFENDERS

**The Hon. CHRISTINE ROBERTSON:** My question is addressed to the Attorney General. Will the Attorney General update the House on the latest information regarding reports of crime committed by women?

**The Hon. JOHN HATZISTERGOS:** The Bureau of Crime Statistics and Research [BOCSAR] has released new research showing that the reported numbers of females proceeded against by police have increased over the past decade. The key findings of the Bureau of Crime Statistics and Research report are that the number of recorded offences by female offenders, including juveniles, increased by 15 per cent from 32,000 in 2000 to almost 37,000 in 2009. In releasing his findings, the Director of the Bureau of Crime Statistics, Dr Don Weatherburn, has stressed that the report does not point directly to more crime. He stated:

The increase in women proceeded against for offending does not necessarily signal an increase in female crime.

In this regard I draw the attention of members to the increase in rates of bail-related and liquor offences. Increased scrutiny of offenders on bail and increased enforcement of liquor laws are two strategies police commonly employ to help control crime. Indeed, catching offenders for such violations can be part of preventing them from more serious criminal activity. On the subject of domestic violence, while women are victims in the vast majority of incidents, there are increasing numbers of reported cases involving women as perpetrators of domestic violence. The Bureau of Crime Statistics notes that the increase in recorded incidents is "more likely to reflect increased public willingness to call police and/or tougher law enforcement than an increase in domestic violence".

This finding suggests that victims of domestic violence perpetrated by women, whether they be male or same-sex partners, or parents, are coming forward and are not discouraged by social stigma. That willingness is a good thing. All victims, regardless of their sex or that of their abuser, are encouraged to continue reporting domestic violence to police. Domestic violence is an unspeakable crime—it breaks the bonds of trust and intimacy in the home in the most unacceptable way. And perpetrators, whether they be male or female, must not be allowed to get away with it. The figures released by the bureau also need to be understood in the context of overall trends in crime rates in New South Wales.

For the majority of offences covered by the report, the numbers of recorded offences, by both males and females, have decreased significantly over the past decade. Some of the most significant reductions have been in motor vehicle theft, down 12 per cent each year for females and 10 per cent for males, and stealing from dwellings, down 10 per cent each year for females and 9 per cent for males. Rates of offending are also down for robbery with a weapon, burglary of non-dwellings, stealing from motor vehicles and fraud. For all those offences, the decrease in the number of female offenders was either the same or more than that for males. The report on recorded rates of offending by female offenders demonstrates that the circumstances that lead to crime do not discriminate between men and women. To drive down crime we need to continue our smart enforcement strategies and to encourage even more victims to assist police.

### CENTRAL COAST ARTIFICIAL REEF PROJECT

**Mr IAN COHEN:** My question is directed to the Minister for Lands. Will the Minister advise the House of the total legal costs incurred and expended to date by the New South Wales Government associated with its representation in the Administrative Appeals Tribunal in the matter of *No Ship Action Group Inc. v Minister for the Environment, Heritage and the Arts & Anor*? Is the Minister concerned that he is breaching model litigant rules in relation to this matter?

**The Hon. TONY KELLY:** This matter is still before the courts so I do not intend to go into it in any depth. My understanding is that next week the matter goes back to the court for final decision, and we have supplied certain information in relation to the matter. I note, however, that the Environmental Defender's Office is funding this challenge entirely. There are some very disappointed people in the Terrigal-Central Coast area because they do not yet have their dive ship. I have been inundated with requests from other States to take the vessel if we do not go ahead with the sinking of the ship off Terrigal and Avoca. Queensland, which already has such a wreck site, is happy to have another one. The money that was given to us by the Federal Government is very important. Queensland wants to sink this vessel next to another wreck, which is already a great haven for something like 109 species of fish. Sinking the vessel on the Central Coast would be an environmentally friendly proposition. Geelong has also asked for the ship. As I said at the outset, I will not talk about the court case because it is still before the court.

### ABATTOIR FINANCIAL ASSISTANCE

**The Hon. JENNIFER GARDINER:** My question is directed to the Treasurer, Minister for State and Regional Development. Has the Department of State and Regional Development, or for that matter the Government, provided any New South Wales abattoirs with financial support, grants, tax breaks or the like in

the financial year to date? If so, which abattoirs have benefited and what assistance was provided? Has the Department of State and Regional Development or the Government given any commitment to financially assist—or given any indication of assistance—to any abattoirs for 2010-11 or for the years beyond that? If so, what commitments have been made?

**The Hon. ERIC ROOZENDAAL:** I must confess I have been a little bit preoccupied in the past few weeks with the budget, so I will take that detailed question on notice.

### COMMUTER CAR PARK PROGRAM

**The Hon. IAN WEST:** My question is addressed to the Minister for Transport. Will the Minister update the House on the Commuter Car Park Program and the benefits it is delivering for rail commuters?

**The Hon. JOHN ROBERTSON:** I thank the honourable member for his ongoing interest in public transport options for commuters. The 2010-11 budget will provide, as the Treasurer has said, a further \$167 million for the Commuter Car Park Program to build 7,000 new commuter car spaces at stations across suburban Sydney, the Blue Mountains, the Central Coast and the Illawarra. The Government is delivering on its commitment to increase parking for commuters across the CityRail network. Twenty-nine commuter car parks are being delivered as part of the Commuter Car Park Program and rail users are already enjoying the benefits of this new parking. Eight commuter car parks have already been delivered at Werrington, Wentworthville, Helensburgh, Campbelltown, Holsworthy, Tuggerah, Windsor and Seddon Park at Glenfield. Construction is nearing completion on new commuter car parks at Morisset, Woonona, Ourimbah and Katoomba.

Building on the success of the Commuter Car Park Program, the Government announced in February this year an investment of \$400 million over the next 10 years in new commuter car parks and interchanges as part of the Metropolitan Transport Plan. The Government is already getting on with the job of delivering five additional commuter car parks as part of that commitment. Site selection and planning has begun for new commuter car parks at Rockdale, Mortdale, Mount Druitt, Cabramatta and Padstow. The Government is committed to improving facilities for commuters and making public transport more attractive and accessible. Each of these 7,000 new car park spaces means an easier public transport journey and all commuter car parks are and will continue to be free to the public.

It is not enough just to boost car park numbers. It is critical to ensure a safe and secure environment for commuters and their vehicles. Each car park is designed according to the crime prevention through environmental design principles. The new car parks feature improved safety and security lighting, and the majority of car parks feature closed circuit television surveillance cameras linked into the RailCorp monitoring network. These projects are delivering improved accessibility at stations, including increased disabled parking at both the new facilities and in existing car parks. Quick and safe kiss and ride passenger drop-off facilities are being provided at many of the new car parks, making it easier to drop off and pick up family members. The Government is also working to ensure that bicycle facilities are provided where appropriate.

The works taking place across Sydney, the Blue Mountains, the Central Coast and the Illawarra are also providing a welcome boost for local businesses and suppliers, large and small. The Government's Commuter Car Park Program was established in November 2008. It was designed to speed up the planning, approval and construction of commuter car park facilities that had previously been bogged down in red tape and negotiation between State Government agencies and local government. This program is a great example of cooperation between government agencies, local councils and local communities, delivering real benefits to local communities.

Since the Commuter Car Park Program began we have seen an increase in passenger journeys on the CityRail network. More people are catching the train and people are taking up the option to park and ride. These are the results we will continue to deliver. This year's budget commitment of \$167 million is an example of the Government's commitment to improving the journey for commuters. This commitment continues in the Metropolitan Transport Plan, a \$400 million commitment to boosting commuter car parking over the next 10 years.

### DEPARTMENT OF PLANNING HUNTER REGIONAL OFFICE

**Ms SYLVIA HALE:** I address my question to the Minister for Planning. Has the responsibility and autonomy of the Hunter regional office of the Department of Planning been reduced? If so, has this resulted in

the resignation of the former head, Mr Steve Brown, because his original responsibilities have been removed? Was Mr Brown responsible for drawing to the attention of the Director General of Planning via email the fact that Catherine Hill Bay and Sweetwater were at the very bottom of the list of areas identified in the Hunter region as being suitable for development? Were these developments subsequently described by Justice David Lloyd in the Land and Environment Court as involving land bribes? Did Mr Brown's resignation amount to constructive dismissal in retaliation for his refusal to kow-tow to the Minister's and director general's express wishes?

**The Hon. Greg Donnelly:** Point of order: The member knows full well that questions ought not to contain argument or seek an opinion. Clearly the question is out of order.

**Ms SYLVIA HALE:** To the point of order: I have asked about a number of specific facts, whether the Minister was aware there had been a reduction in responsibility—

**The PRESIDENT:** Order! Having been shown a copy of the question, I find that it does contain argument. Accordingly, I uphold the point of order.

### ELECTRONIC TICKETING SYSTEM

**The Hon. DAVID CLARKE:** My question without notice is directed to the Minister for Transport. As our brand new transport Minister, is he aware that the State Labor Government originally promised Tcard, Sydney's electronic ticketing system, in 1998, in time for the Sydney Olympics? Will the Minister explain why the budget papers now show that this vital project will not be completed until 2015, despite assurances as recent as last month by the previous Minister that electronic ticketing would be up and running by 2012?

**The Hon. JOHN ROBERTSON:** I am pleased to advise that the New South Wales Government signed a contract with the Pearl Consortium on Friday 7 May 2010 to deliver Sydney's new electronic ticketing system. The Pearl Consortium includes partners who delivered the world-famous Oyster travel card used daily by millions of London's public transport users. Leading members of the Pearl Consortium include Cubic Transportation Systems (Australia), Downer EDI and the Commonwealth Bank. The new system will enable commuters to tap on and tap off from different modes of transport—trains, government and private buses, and government ferries.

It will operate in a similar way to an e-tag. Each card or tag can be linked to an account from which the price of the journey will automatically be deducted. Commuters will be able to top-up their accounts on-line or arrange to have automatic deductions made from a linked bank account or credit card. They will also be able to load cash onto the card through retail outlets. The electronic ticketing system will be rolled out across the greater Sydney public transport network, including Newcastle and the Hunter region, as well as Wollongong and the Illawarra, and the Blue Mountains. As we have always said—and I am happy to repeat for the benefit of the members opposite who seem not to be bothered about paying attention—we anticipate the system will begin to be rolled out to public transport by the end of 2010. This has not changed. Opposition members are so out of touch that they think a brand new ticketing system on thousands of public and private buses, at train stations and on ferries can be installed just by waving a magic wand.

**The Hon. Catherine Cusack:** Don't laugh while you are saying that.

**The Hon. JOHN ROBERTSON:** I am laughing at you lot—you are a joke.

**The Hon. Catherine Cusack:** You cannot take yourself seriously on this. I can't believe you are talking about it.

**The Hon. JOHN ROBERTSON:** I am very happy to talk about it.

**The PRESIDENT:** Order! I remind the Hon. Catherine Cusack that she should not interject. The Minister may proceed.

**The Hon. JOHN ROBERTSON:** In the real world there needs to be an implementation phase with a logistical frame. The New South Wales Government is delivering an electronic ticketing system that will benefit the millions of people who use our public transport system every week.

## FUNDING PROVISIONS FOR YOUNG PEOPLE

**The Hon. LYNDA VOLTZ:** My question is addressed to the Minister for Youth. Will the Minister please update the House on new funding provisions being allocated for young people of New South Wales in the 2010-11 budget?

**The Hon. PETER PRIMROSE:** I thank the honourable member for her question. The Keneally Government is investing in the future of New South Wales young people with a new \$11.4 million youth package to help young people get into jobs. The \$11.4 million youth package comes on top of more than \$200 million dedicated to giving our young people the best possible start to their lives. The job-readiness package is focused on getting young people engaged in education, training and employment, and helping them meet the challenges of the future.

The youth package includes \$5.5 million to support 2,000 unemployed young people undertake targeted employment-ready training courses; \$3.9 million to fund employment advisers in schools and training centres in areas of high youth unemployment, including the Illawarra, Central Coast and western Sydney; and \$2 million to support local community programs that engage young people in sports and cultural development activities, and provide links to local job or training opportunities.

In New South Wales more than 40 per cent of all unemployed people looking for work are under 25 years of age. While New South Wales is managing a strong economic recovery following the global financial crisis, too many young people still find themselves out of work. In some areas, such as western Sydney, Wollongong and the Central Coast, youth unemployment is higher than average. This package helps tackle the drivers of youth unemployment. It funds the best approaches to support and encourage young people in their early years so that they will thrive in work and later life. The choices and decisions we make when we are young have a lasting effect on our future. That is why we need to help our young people make the best choices when it comes to their education, employment and how they use their free time.

The budget package is in addition to a number of youth training programs already established by the New South Wales Government, including raising the school leaving age, so that young people must be at school, in training or in a job, or a combination of these, until the age of 17; funding training for 28,000 new apprenticeships and traineeships over four years as part of an additional 175,000 training opportunities provided under the National Partnership for Productivity Places; and investing in 4,000 additional apprenticeships for New South Wales Government projects and 2,000 cadetships in the public sector over four years in response to the New South Wales Government's Jobs Summit.

The budget allocation for the Youth portfolio also includes \$10.73 million to the Commission for Children and Young People for its core functions and \$3.7 million for the Children's Guardian; a further \$1.317 million to the Commission for Children and Young People to boost background checks on those working with children across the State as part of the Government's Keep Them Safe reform for child protection services; a further \$233,000 to the Children's Guardian; and \$1 million to rebuild the commission's employment screening system and re-engineer its business processes. This will generate savings and have the flexibility to adopt improved procedures. The new youth package complements other youth programs, support services and child protection in the budget, including the \$4.4 million Better Futures Program, which aims to improve outcomes for disadvantaged children and young people.

## EDUCATION FUNDING

**The Hon. ERIC ROOZENDAAL:** Earlier in question time Dr John Kaye asked me a question in relation to recurrent funding. The figures reported in the budget papers include the impact of funding for the National School Pride component of the Building the Education Revolution Program. Although substantially a capital program, the Building the Education Revolution program contributed to recurrent government school maintenance under its National School Pride component during 2009-10. This recurrent funding amounted to almost \$165 million in that year. This component of the Building the Education Revolution Program is being completed in 2009-10, on time and on budget. There will obviously be no expenditure under National School Pride in 2010-11, which causes a reduction in our funding.

## ELECTRONIC TICKETING SYSTEM

**The Hon. JOHN ROBERTSON:** Amongst all the interjections during my earlier answer about the Tcard, I may have misspoken and said that we anticipated the system would begin to be rolled out to public transport by the end of 2010. I should have correctly said 2012.

## **AGEING, DISABILITY AND HOME CARE RESTRUCTURE**

**The Hon. PETER PRIMROSE:** On 8 June 2010 Mr Ian Cohen asked me a question without notice regarding staffing matters in Ageing, Disability and Home Care. I provide the following response. Ageing, Disability and Home Care is making changes to the staffing structure in Ageing, Disability and Home Care accommodation and respite services, which will be in place around October this year. Instead of a network manager working from the office and visiting clients' homes, a team leader will be based in clients' homes to supervise and support the staff. Most of the staff will stay the same and clients' housemates will not change. The changes are about providing a better service to clients.

The new structure has been developed following extensive consultation with staff, clients, families and the Public Service Association. It provides for a team leader in group homes, respite centres and in-home support services. Some 359 positions of team leader are being established to provide direct client care and operational management, administration and supervision of the unit. A staff management plan has been developed to place existing staff into the new structure in accordance with the merit principle under the Public Sector Employment and Management Act 2002 and the policy of managing staff affected by structural change.

The plan provides for existing permanent network managers, residential support workers level 3 and house managers to be matched or priority assessed to the new team leader positions based on their existing substantive rates of pay. These staff will not be appointed on probation as they have already satisfied the merit principle. Staff appointed to the new team leader positions will participate in a team leader development program offering training in the qualifications required for the team leader position, including recognition of prior learning.

The changes proposed are firmly aimed at improving the quality of support for clients by putting front-line managers back into group homes, respite units and in-home support services. This will provide leadership and support for staff. Staff will also benefit from clearer career path options and more professional development opportunities, which in turn will ensure a quality service to clients and families.

### **Questions without notice concluded.**

*[The President left the chair at 1.07 p.m. The House resumed at 2.40 p.m.]*

## **JURY AMENDMENT BILL 2010**

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

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

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

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

### **Pursuant to sessional order debate on Committee reports proceeded with.**

## **GENERAL PURPOSE STANDING COMMITTEE NO. 5**

### **Report: Rural Wind Farms**

### **Debate resumed from 2 June 2010.**

**Mr IAN COHEN** [2.42 p.m.]: Earlier I was discussing issues surrounding wind power and mentioned submissions that raised doubts over the ability of wind power to minimise greenhouse gases during operation, believing that the overall savings to be made are substantially less than the claims being made. Concerns about whether wind farms actually help to reduce greenhouse gas emissions were found by the committee to be totally without substance. Evidence presented to the committee by Epuron Energy and Dr Mark Diesendorf demonstrated that emissions associated with construction are offset within three to seven months of operation. Marubeni Australia also confirmed that wind turbines do not emit any greenhouse gases once they are operating.

As Australia has one of the largest greenhouse gas emission footprints in the world, we cannot allow misinformation about greenhouse gas emissions from wind farms to derail an important part of the climate change solution.

In examining the location and siting of wind farms to optimise wind resource use and minimise residential and environmental impacts the committee was confronted with a number of vexing policy issues and general legislative inconsistency. Provisions of part 3A of the Environmental Planning and Assessment Act do not require consideration of, or adherence to, local development control plans or other local planning assessment processes, leading to the perception that local community interests are not being evaluated adequately. There also are no comprehensive guidelines on the development of wind farms in New South Wales to plug these gaps. The existing fragmentation in the planning framework is especially prevalent in the management of noise impacts from wind farms. This situation results from wind farms being excluded as a scheduled activity under the Protection of the Environment Operations Act 1997. This means that there is not sufficient incentive to address potentially excessive operational noise impacts during the assessment process. As the submissions and site visits by the committee showed, some local communities are now experiencing unacceptable levels of noise impact.

A number of submissions reported frustration over the fact there is no mechanism for addressing noise complaints once a wind farm has been built. George McLaughlin told the committee that, despite assurances that noise would not be an issue, the noise impact from the Capital Wind Farm at Taralga has led to many sleepless nights. He told the committee that there has not even been an acknowledgement of this complaint by the Department of Planning. To ensure that potential noise impacts are managed proactively during the planning phase the committee stresses the need for wind energy generation to be included as a scheduled activity in the Protection of the Environment Operations Act 1977 and that environmental assessments of wind farms are required to include a full assessment of potential noise impacts.

To deal with noise complaints once a wind farm is up and running the committee has recommended that the New South Wales planning and assessment guidelines for wind farms include a complaints management mechanism. Another significant issue that has fallen through the regulatory cracks is that of buffer or setback zones between wind farms and neighbouring properties. The committee received a number of submissions on the setback issue, with suggested distances ranging from 750 metres, as currently practised by Wind Prospect CWP, to 12 kilometres. The committee's recommendation 7 has created significant debate in the industry, in the wind farm precinct communities and within the committee. The three Labor members of the committee wrote a dissenting report rejecting recommendation 7 about which I shall make a number of comments now and in reply.

The committee received a range of testimony and evidence with varying degrees of validity and integrity. The committee certainly did not ignore this information, which is contained in the South Australian guidelines and the draft national wind farm development guidelines, but went on a number of site visits. This firsthand experience of wind farm developments was more influential in the committee's deliberations. The committee heard from the Evans family, who have been members of the Furracabad Valley community for more than 10 years. They are now trying to come to terms with the changes to be brought about by the installation of wind turbines 800 metres from their house—an unacceptable situation for them due to the considerable noise impacts. Despite this, they support wind farms generally and want to help develop appropriate guidelines. The Evans family requested that the two-kilometre setback be mandated between the turbines and neighbouring residential dwellings, as specified in the local development control plan.

The crux of recommendation 7 calls for the New South Wales planning and assessment guidelines for wind farms to specify a minimum setback of two kilometres between wind turbines and residential dwellings on neighbouring properties, and for such a setback to be waived with the consent of neighbouring property owners. I ask the House, in evaluating this recommendation, to consider the situation whereby a medium- to large-scale wind farm host sites turbines five kilometres away from their own residential dwelling and 800 metres away from their neighbour's residential dwelling. The disproportionate impacts of wind turbine operation fall upon the neighbour, with the wind farm site host having minimised its loss of amenity. Host property owners limit the loss of their amenity by placing wind turbines at a greater distance from their dwelling than that of their neighbour. In this situation the wind farm host was receiving upwards of \$860,000 a year, while the neighbour, who bears the majority of impacts, receives nothing. I am sure most members would agree that this strategic siting of wind farms is simply unfair.

As Chair of General Purpose Standing Committee No. 5 I want greater provision for benefit and profit sharing. By ensuring that those who carry a disproportionate burden regarding amenity impact have a stake in



profits, we may diffuse elements of community angst and opposition to wind farms. Benefit sharing will be essential to encouraging local community ownership of renewable energy infrastructure rather than corporate design and ownership of renewable energy. The intention behind recommendation 7 is to create a mechanism for benefit sharing and to ensure that the financial benefit of siting wind farms is consistent with the burden sharing of amenity impact. However, I accept that many stakeholders have interpreted this recommendation as either a ban on wind turbines being closer than two kilometres to a residential dwelling or as giving neighbours an active veto over wind farm development within two kilometres of a residential dwelling.

I will deal with the interpretation that recommendation 7 advocates a total outright ban on siting wind turbines closer than two kilometres to a neighbouring residential dwelling because this is the key misrepresentation contained in the dissenting report of the three Labor members. Nowhere does the committee recommend a ban on wind turbines within two kilometres of residential development. The majority of the criticisms made in the dissenting report are predicated on the concept of a ban and, as such, render many elements of the dissenting report critique irrelevant. For example, the argument that a two-kilometre setback will sterilise significant areas of the State from wind farm development simply is not true as wind farm hosts will be able to place wind turbines closer than two kilometres from residential dwellings when a negotiated benefit-sharing agreement is entered into.

The second, and more reasonable, interpretation of recommendation 7 is that it gives neighbouring landowners a veto over whether a wind turbine is sited closer than two kilometres to a neighbouring residential dwelling. My intention in supporting recommendation 7 was to ensure that neighbours of wind farms who bear the larger impact of wind farm siting will be able to seek access to the income received by the turbine host. The object of the recommendation, or at least my understanding of the recommendation, is to provide a mechanism for benefit sharing through reasonable, good faith negotiations and mediation between wind farm hosts and neighbours.

In instances in which agreement cannot be reached and the wind turbine host wants the wind turbine to be situated closer than the minimum setback the Land and Environment Court could arbitrate to achieve a fair and adequate benefit-sharing package. I do not think the intention was to create a right for neighbouring properties to stop wind farm developments in their tracks. Community consultation was mentioned by a number of participants in the inquiry as a key issue. The committee heard about a significant level of community concern about the consultation process during the strategic and detailed planning, assessment and operational phases of wind farm developments. It is well known that the more effectively a community can be engaged during planning the greater is the likelihood that a proposal will be accepted and supported.

Renewable energy precincts have been established throughout the State as part of a broad-scale approach to achieving renewable energy targets, and this includes the use of precinct advisory committees. However, the way in which this initiative has been explained to the community has done more harm than good. There is a high level of uncertainty over what a precinct is, how it is established, the local community's role in deciding where wind farms will go, how they will be managed, and their overall purpose. Communities feel they do not have any say in whether a precinct is established in their area, let alone a say on what happens when a wind farm is proposed. Given that the intent is to facilitate early community engagement, this must be addressed through better information being provided to the public about renewable energy precincts.

Other ways in which community support for, and engagement in, wind farms could be facilitated is by the Government encouraging local ownership of wind farms. Local cooperative ownership of small-scale wind farms has been very successful internationally in countries such as Denmark and Germany. Those countries now draw a majority of their wind power from cooperatively owned wind farms. While the committee recognises recent initiatives by the Government to provide subsidies to homeowners who install wind turbines and development of guidelines on cooperatives as positive steps towards encouraging local ownership, that can be strengthened by the Government commissioning a study to look more closely at this issue. Particular attention should be paid to international examples and how the New South Wales legislative framework would need to be amended to reflect that type of wind farm ownership. Currently only wind farm developers and host landowners share financial benefits from wind farms, but that matter could be addressed by the establishment of community funds to spread the profits. [*Time expired.*]

**The Hon. RICK COLLESS** [2.52 p.m.]: On 24 June 2009, following a request by the member for Burrinjuck, General Purpose Standing Committee No. 5 received a reference to undertake an inquiry into, and report on, the social, environmental and economic costs and benefits of rural wind farms. The constituents of Burrinjuck had made many representations to the hardworking and very capable member for Burrinjuck, Katrina

Hodgkinson, MP. More than 120 submissions were received following advertisements having been placed in regional and metropolitan newspapers on 8 July 2009. The first hearing was held on 11 September 2009 and the final hearing was held on 9 November 2009. A site visit was conducted on 30 September 2009 at the Cullerin Range wind farm, south of Goulburn, at the sites of proposed wind farms at Crookwell, and at the Capital Wind Farm on the shores of Lake George.

Many of the submissions received were from individuals whose properties were adjacent to existing or proposed wind farms. They expressed concern over issues surrounding the construction of large industrial structures in an area zoned agricultural. Other submissions were received from supporters of wind energy, including environmentalists, wind energy development companies, landholders contracted to sponsor wind farms and New South Wales government agencies. While the genesis of this inquiry was specific concerns about wind farms in rural farmland, the inquiry provided a forum for the community, industry and Government agencies in which to debate the wider issues surrounding the introduction of wind energy infrastructure.

The first three chapters of the report basically consist of background material while the substantive component of the report is in chapters 4 to 9. Before I discuss some of the technical issues surrounding the wind farm issue I must point out the political folly that the Government has embarked upon to justify its single-minded approval of wind farms. Several Premiers ago Bob Carr made a knee-jerk decision and announced that New South Wales would have a desalination plant that would be triggered when Sydney's water supply dropped to 30 per cent. That decision drew the environmentalists, who were all Bob Carr supporters, out of their caves to criticise the Government because desalination plants use massive amounts of electrical energy in the reverse osmosis process. Of course, extra electrical energy means burning more coal, more coalmines, and more emission of carbon dioxide into the atmosphere. Bob, who was ever vigilant regarding the need to secure Green preferences to ensure Labor's electoral success, made yet another knee-jerk decision and announced New South Wales would have wind farms to power the desalination plant—no consultation, no discussion, no leadership, just the start of the process.

The next Labor Premier, Morris Iemma, had to try to lift his ailing profile so he announced that the desalination plant would commence immediately, despite water storage volumes not being anywhere near the trigger level. These decisions were all about securing Greens preferences—exactly the same process as the Brigalow Belt lockup—and now the Minister for Climate Change and the Environment, Frank Sartor, has admitted to the people of the Riverina that that is also the reason Labor is now locking up the magnificent red gum forests along the Murray River. It is all about Labor securing the Greens preferences for the 2011 election. It has nothing to do with good forest management or regional development.

Regional communities had wind farm developments imposed on their doorsteps, whether they liked them or not. The proponents and supporters of wind farms pointed to the first wind farm in New South Wales, Crookwell 1, with six turbines, as a successful example of an operating wind farm in New South Wales. The Crookwell 1 development has its own detractors, particularly the adjoining landholders who have to suffer the noise, shadow flickering and visual pollution of the towers. In addition, the towers are just 60 metres to the hub with 20 metres blades, making a total tower height of 80 metres. A more recent development on the Cullerin Range south of Goulburn has towers 80 metres high to the hub with 40 metres blades, with a total height of 120 metres. The new development proposals allow for towers 100 metres to the hub, with blades 55 metres long, making a total height of 155 metres, and with a generating capacity of 3 megawatts.

The most recent turbine development in Germany, which was not discussed during the inquiry, exhibits a tower 135 metres to the hub with blades 63 metres long, making a total height of 198 metres, and with a generating capacity of 7 megawatts. Let us consider the blade tip speeds for each of these dimensions. A 60-metre tower with blades 20 metres long spinning at 20 revolutions per minute will have a blade tip speed of 150.7 kilometres per hour. An 80-metre tower with blades 40 metres long spinning at 20 revolutions per minute will have a blade tip speed of 301.4 kilometres per hour. A 100-metre tower with blades 55 metres long spinning at 20 revolutions per minute will have a blade tip speed of 414 kilometres per hour. A 135-metre tower with blades 63 metres long spinning at 20 revolutions per minute will have a blade tip speed of 475 kilometres per hour.

The hubs have a governing system to prevent the blades from exceeding approximately 20 revolutions per minute, so even at a blade length of 63 metres the turbine's speed itself should not be a problem—although the turbine will be considerably noisier than turbines with shorter blade lengths—unless something malfunctions. There have been reports from both the United States of America and Denmark about the governors malfunctioning. In those cases, the blades spun out of control and reached a velocity that was well in excess of the limit of 20 revolutions per minute.

The consequences were disastrous, with one of the blades initially shattering, putting the whole turbine out of balance. The turbine completely destroyed itself as a result. Very large pieces of debris were flung hundreds of metres from the turbine. In the United States example a major highway was closed for hours because the turbine was spinning out of control for a period before it finally self-destructed. Should that scenario materialise on the Cullerin Range, it would close the Hume Highway. Several of the turbines on that wind farm are high above the highway and only a few hundred metres from it. That information was not put before the committee. I invite the wind farm companies to address the failures and identify measures that have been put in place to prevent such disasters from occurring in New South Wales wind farms.

A second issue not fully explored during the inquiry was ice thrown from the blades. As any pilot or regular traveller in light aircraft would know, ice being thrown from propeller blades is very common in colder climates and during the colder months. The same phenomenon can occur with wind farm blades. That has been documented in the United States of America. Wind companies say that the electronics will detect ice build-up on the blades and automatically shut down the turbine, but documented cases in the United States of America have seen ice the size of a single bed thrown up to 300 metres off a wind turbine blade. As ice has a specific gravity of 0.92, one cubic metre of ice weighs 920 kilograms. A lump of ice the size of a single bed could conceivably be between one and two cubic metres and as such weigh between one and two tonnes. A one tonne-plus lump of ice launching at hundreds of kilometres per hour has the potential to be a lethal missile as it comes into contact with the natural and/or built environment.

The report contains 21 recommendations. While I do not intend to go through each one in detail, I will make a few comments about some of the key recommendations and the dissenting report submitted by Government members. Recommendation 3 calls for wind farm developers to consider local government development control plans [DCPs], and the development application, when submitted to the Department of Planning, must contain information confirming that the plan has been complied with. This is a fundamental issue that should apply to all developments considered under part 3A of the Environmental Planning and Assessment Act. The current situation means that the Minister for Planning does not need to consider the impacts on local communities when granting approvals of this nature.

Local government is often cited as the level of government that is closest to the people. However, there is no point in local councils going to the trouble, time and expense of undertaking community consultation to prepare a development control plan when the Minister can simply disregard it. Recommendation 7 raises the issue of minimum setback distances of turbines from residences, and recommends that a minimum distance of two kilometres should be included in the New South Wales planning and assessment guidelines for wind farms. The second part of this recommendation is also important as it allows for the minimum distance to be waived with the consent of the affected owner. Recommendation 9 addresses the decommissioning of expired turbines: developers should pay a security bond to cover the cost of rehabilitation of the site, in much the same way as a mining development is required to pay a security bond to cover the cost of rehabilitation should the mine fail financially during the mining phase.

Recommendation 11 calls for research into compensation options for adversely affected residents, including the purchase of affected property. The general tenet of the Government members' dissent was that the setback distances of two kilometres between a turbine and a non-associated residential dwelling was to address the issue of noise impacts. Noise is not the only issue. Government members appear to have little or no understanding of the beauty of high regional areas, the aesthetic values property owners in these areas place on their vistas, the peace and quiet of where they live, and the serenity and the intrinsic values of living and working on the land. Finally, I congratulate the staff on the management of the inquiry and preparation of the report. As usual, their performance was outstanding and I thank them for their untiring efforts. I commend the report to the House.

**Dr JOHN KAYE** [3.02 p.m.]: As the Greens energy spokesperson I respond to the report of General Purpose Standing Committee No. 5 entitled "Rural Wind Farms". In doing so I make the observation that wind is an extremely important source of energy. If we are to take seriously the challenge of decarbonising our electricity industry, moving away from an industry which currently produces something like 40 per cent of our greenhouse gas emissions in New South Wales and about 60 million tonnes of carbon dioxide a year, wind will play a crucial role, at least as a transition source of energy if not as a long-run player in the low-carbon energy future. As it stands today, wind is the cheapest and most cost-effective competitor to coal, and any reasonable carbon price would start seeing much greater economic viability for wind energy. Wind also offers a huge jobs benefit, particularly in rural and regional areas, not only in terms of the manufacture of some key components—

it is possible to manufacture about 80 per cent of the components of wind turbines in Australia—but also in terms of maintenance and installation. For many depressed rural communities wind energy offers a way of gaining some of the 73,800 jobs that a clean energy future would bring to New South Wales.

There are huge economic benefits to be gained from wind energy if it is done in the right way. A number of arguments against wind energy have been intelligently canvassed in the report. Some of the arguments were just plain silly. The energy payback argument is based on non-science and misleading data, and should be rejected, as indeed it was in the report. Some arguments sound good but, when examined more closely, are not sound at all. One of those arguments relates to base load power. It has been argued that wind does not provide base load power and therefore cannot contribute to the reduction of coal burning. This is complete nonsense. In the diversified low-carbon energy future there is no question that we need to move away from the old definition of base load.

Base load was a concept that was developed to build patterns of demand that would support fossil fuel powered boiler generators. As we move away from that technology we need to look more carefully at what we mean by some of these terms. One term which will inevitably disappear is the concept of base load. Another issue that is often raised is that the existing transmission grid will not support wind energy. Recommendation 1 in the report, which relates to alternative funding options for transmission development that would allow wind power to be sited at locations which not only have a lower impact on surrounding neighbours but also have a better wind resource, makes eminent sense and is entirely supported.

One issue that definitely needs resolution is that of the relationship between wind farms and their surrounding neighbours. The report proposed a study of community ownership as an important ingredient for resolving the conflicts that seem to be arising. There is no question that in Europe, especially in Denmark and Germany, community ownership of wind farms, both local shareholding ownership and ownership by local public authorities—the equivalent of our local government—has been enormously successful not only in developing wind farms with a lower degree of opposition but also in terms of securing the economic benefits back to the region in which the generators are sited. Indeed, a comparison between Denmark and the United Kingdom showed the utility of community-owned wind farms and the consequences of better decision making from them.

Unfortunately, community ownership, which is a sensible idea, cannot be relied on as a sole vehicle for development. There simply is not enough cash in rural communities and the timetables that would be required are too long given the urgency of reducing our carbon pollution. It is inevitable that the future of wind energy will rely on both utility and private investor driven projects for some time to come. The committee also identified a lack of clarity about noise monitoring and regulation. We agree with the concept that the Department of Environment, Climate Change and Water should be the appropriate body with the appropriate expertise, as outlined in recommendation 5.

The report also identified problems with the development of renewable energy precincts and made some sensible recommendations in recommendation 8. It is clear that the way the renewable energy precincts have been handled has created unnecessary consternation that could have been avoided. While the precinct is a good idea for orderly development, the community needs to understand where the recommendations are coming from. The issue of setbacks in recommendation 7 has been the most controversial aspect of this report. Recommendation 7 proposes a two-kilometre setback between a neighbouring residential building and the wind farm, but that can be waived with the consent of the affected parties. I strongly welcome the interpretation offered by the committee chair, Ian Cohen, where he cast this recommendation into the important issue of benefit sharing, with the Land and Environment Court as the final arbiter.

I am pleased to hear that this recommendation was not intended to mean a simple two-kilometre setback; nor was it intended to create a veto right for neighbours. That would have sterilised a massive area of New South Wales for important wind resources. Giving a simple veto right to the neighbours would impede the progress of renewable energy in this State.

Mr Ian Cohen identified that it was not the intent to stop wind farms in the State. While the wording of recommendation 7 is perhaps a little bit confusing, the intent behind it, as now clarified, seems to be consistent with the desire to have an orderly development for green energy in New South Wales. The Greens simply could not support a two-kilometre setback, or the right of simple veto. We agree with Mr Ian Cohen that it is important to explore the benefits of sharing between neighbours that could reduce opposition to the orderly development of wind farms. There needs to be a more detailed debate on this issue. Some commentators have proposed a

setback of 10 times the blade diameter, and for a typical 2.5 megawatt generator in New South Wales that would be about 800 metres. That is a sensible setback for a plant of that size. Larger plants would clearly need larger setbacks and smaller plants would need smaller setbacks.

The debate on the future of wind, no doubt, will continue as it should, and this report will become a key component in that debate, but it is important that it be driven by quality information. Too many groups that are hostile to wind farms are feeding into the debate information that is simply wrong—groups like the North American Platform Against Windpower, the European Platform Against Windfarms and the National Wind Watch in the United Kingdom are exaggerating the noise and amenity impacts. They provide malicious understatements of the energy contribution from wind farms and the roles that they can play in the future of energy, and they totally overstate the impacts on birds. They seek to exploit the ignorance of the community about energy issues and to stir up fear wherever they go.

The future for New South Wales is dependent on an orderly development of wind energy. It is extremely important that misinformation peddled by such groups and others is rejected and that it does not become part of the debate. This needs to be a debate about the future of rural communities, the planet and Australia's energy industry; it should not be a debate that is misinformed by malicious lies and misleading statements.

**The Hon. LYNDIA VOLTZ** [3.12 p.m.]: I do not know where to start; I am flabbergasted. I often hear the Government accused of spin, but what has been said about recommendation 7 in this debate thus far is the biggest load of spin I have ever heard. The recommendation is clear. It calls for the Minister for Planning to include a minimum setback distance of two kilometres between wind turbines and residences on neighbouring properties in the New South Wales Planning and Assessment Guidelines for Wind Farms.

**Mr Ian Cohen:** Let's hear the rest of the recommendation.

**The Hon. LYNDIA VOLTZ:** The guidelines should also identify that the minimum setback of two kilometres can be waived with the consent of the affected property owners. It is asking that there be a minimum setback of two kilometres, which can be waived only with the consent of a neighbour. It is clear: The neighbour has the power of veto. This is the biggest load of spin I have ever heard. Members who accuse the Government of putting spin on its messages are guilty of presenting the biggest load of spin I have ever heard.

**The Hon. Duncan Gay:** Would you like one near your place? We will start putting them in inner Sydney.

**The Hon. LYNDIA VOLTZ:** The Deputy Leader of the Opposition is interjecting, but I would be interested to hear from him about recommendation 1, which relates to investing in transmission lines—

**The Hon. Duncan Gay:** I didn't say anything about transmission lines. I said that we will put them near your in house.

**The Hon. LYNDIA VOLTZ:** This morning the Deputy Leader of the Opposition asked the Minister for Energy a question about electricity prices that related directly to investment in transmission lines. How much does the Opposition intend to invest in transmission lines, and how much will the people in New South Wales have to pay for that through their electricity bills? It is a complete fraud for the Opposition to criticise this Government's investment in transmission lines without justifying its own statements in this regard.

This was an amazing inquiry. Prior to the inquiry the most I had heard about wind farms was that which came from Michael Costa, and I am sure all members will recall his views. Until I became a member of this inquiry I had only ever heard Michael Costa's views on the subject. Interestingly, the views previously espoused and canvassed by Michael Costa were suddenly taken as the Gospel truth in this inquiry. I felt like Pancho Sanchez to the Hon. Rick Colless's Don Quixote, as he donned his armour and we went riding off into the darkness of the rural countryside tilting at windmills as if they were giant beasts.

**The Hon. Trevor Khan:** It is interesting how brave you have become about Michael Costa since he has left the Chamber. You didn't say anything about Michael Costa when he was in the Chamber. Great bravery after he has gone.

**The Hon. LYNDIA VOLTZ:** I note that comment. I invite the Hon. Trevor Khan to read *Hansard* because I certainly said plenty about Michael Costa. Inquiries such as this are very important in order for people

to express their views, but quite often those views are the views of people on one side of the argument rather than the views of people from all sides of the argument. A couple of incidents that occurred during the conduct of the inquiry say a lot about this matter. I recall one occasion when committee members went to inspect a wind farm site, and we were driving through the night, for hour after hour. I am sure we were lost at one stage. We were travelling along in our bus. We would probably have been better off on horseback because we were certainly on a dirt track and our bus driver was looking very concerned.

Eventually we pulled over because we saw a car approaching us in the distance. I said "That will be it. That car is coming down to pick us up. This is the farm we have come to inspect." When the car stopped its driver, "Ah, what do you guys want?" And someone among us—someone very brave because we had not checked to see whether this bloke had a weapon—put his head out the window and said, "We are a busload of politicians out here conducting an inquiry into wind farms." After the guy stopped laughing he said, "Oh, you'll want that mob that squeak up the hill a bit. Off you go up there." And we did go. It proved to be important to speak to these people. I was asked whether I could hear anything. Well, I am afraid that apart from hearing the dog barking next door and a bloke playing Cold Chisel on the next farm, I could not actually hear anything from the wind farms.

**The Hon. Duncan Gay:** So where were these armed farmers?

**The Hon. LYNDIA VOLTZ:** We were out the back of Lake George. It is important to visit these areas. If a wind farm were operating in Bardwell Park, where I live, I doubt that anyone living there would hear the wind turbines over other noises in the area. I certainly could not hear such a noise at that farm on that occasion. It may have been possible had I been closer, or things were quieter, or the bloke next door was not playing Cold Chisel—

*[Interruption]*

There is nothing wrong with Cold Chisel, that is quite right; they are quite good. An interesting comment made by someone at another site we inspected was, "Why should we put up wind farms so you people"—and I love this type of comment—"in the city can have clothes dryers?" I pointed out that I did not have a clothes dryer and I was shocked to learn that people in the country do not use electricity or clothes dryers. But the important message to relay here is that electricity, and its provision across the State, is a benefit not only to city people but also to country people and the growth of New South Wales. And that is where the difficulty arises in all of this. The arguments expressed about Scone were quite interesting. It was argued that windmills would scare the skittish horses in the area and therefore they could not conduct sales in Scone. I know that the breeders at Scone have had problems with Bickham Coal Company, and am surprised that jockeys are allowed to ride this precious breed of horse from Scone.

**Mr Ian Cohen:** They are missing Ian Macdonald!

**The Hon. LYNDIA VOLTZ:** They are probably missing Ian Macdonald. Obviously the coalmines and the wind farms are out, so where is the balance in the energy debate? The reality is that there needs to be a mix of energy needs. If we are talking renewable energy, as Dr John Kaye said, wind farms and the development of the wind farm industry are an important part of the mix. Nowhere in the world, particularly in Europe, is there a setback of two kilometres. In fact I understand that the widest setback in Europe is one kilometre. Mr Ian Cohen may want to check that. I would like to know, however, where is the mix that works and that has no spin.

**The Hon. TONY CATANZARITI** [3.20 p.m.]: Madam Deputy-President—

**The Hon. Jennifer Gardiner:** Are you about to endorse what the Hon. Lynda Voltz just said?

**The Hon. TONY CATANZARITI:** Does the member wish to speak in the debate? If she does, she will have to seek the call from the Deputy-President.

**The Hon. Jennifer Gardiner:** Are you about to endorse what the Hon. Lynda Voltz just said or are you issuing a dissenting report?

**The Hon. TONY CATANZARITI:** Is the member speaking to me?

**The Hon. Lynda Voltz:** Point of order: It is difficult to hear the member because of the noise in the Chamber.

**DEPUTY-PRESIDENT (Ms Sylvia Hale):** Order! I ask the member to address his remarks through the Chair.

**The Hon. TONY CATANZARITI:** I am pleased to speak to report No. 31 of the General Purpose Standing Committee No. 5 on its inquiry into rural wind farms. I am happy to say that I am in broad agreement with 20 of the recommendations of the report, dissenting to only one recommendation, about which I will speak shortly. Wind farms are an important addition to our energy infrastructure and over time will assume an important place in the energy security of Australia. As a farmer in rural New South Wales, I can see that leasing land for wind farms will be an attractive way for farmers to generate additional farm income, and I strongly support the recommendations in the report regarding decommissioning of generators.

Farmers and other landowners who allow their land to be utilised, however, must have the peace of mind that, should something go wrong, they will not be left with the costs associated with removing such large pieces of infrastructure. Decommissioning costs are now commonplace with other power systems. This is especially the case with regard to nuclear power since overseas experience has shown that governments have had to foot the bill in some instances. Recommendation 7 states:

That the Minister for Planning include a minimum setback distance of two kilometres between wind turbines and residences on neighbouring properties in the *NSW Planning and Assessment Guidelines for Wind Farms*. The guidelines should also identify that the minimum setback of two kilometres can be waived with the consent of the affected neighbouring property owner.

With regard to my dissenting opinion to recommendation 7, I believe that responsible setback parameters are required. However, I believe that a blanket ban such as that provided by recommendation 7, which sets a minimum two-kilometre setback, is unworkable and unreasonable. In my view the noise generated by wind turbines is fairly negligible when compared with noise generated by frost fans. My concern would be with the constant shadows that turbines can cast. I can fully understand the annoyance that people have with regard to strobing shadows. Poorly placed turbines, especially a bank of them, could see individual property owners suffering as a result of this effect, not just during one part of the day from one turbine but for a considerable length of the day from numerous turbines as the sun crosses the sky. While I agree with the committee that this effect has not been scientifically proven to cause ill effect, I personally would not appreciate it and I understand why others who have experienced it do not.

In many respects I disagree with recommendation 7 for the same reasons that I disagree with the recommendation that new houses should not be built within two kilometres of existing wind farms. While people should have the right to complain about wind farms, existing and proposed, others should also be allowed to build within whatever envelope they decide is appropriate, should they wish to, except when there is potential for danger to them should they do so. The merit-based noise assessments under the South Australian guidelines are a good and proper process and will provide acceptable safeguards. I would like to recognise the efforts of the committee secretariat once again, who provide us with support and assistance when we undertake important inquiries such as this.

**The Hon. HELEN WESTWOOD** [3.24 p.m.]: I would like to speak to a number of the recommendations, but I certainly will not be covering them all. The detailed substance of the report has been adequately covered by other members today. However, I think it is worthwhile talking about the origins of the inquiry. The terms of reference and the request for the inquiry came about because of opposition in one part of the State to the development and construction of wind farms. The inquiry was referred following representations by a local member. The submissions and evidence we received at the various hearings were very much from the perspective of community members who were opposed to the development and construction of wind farms in their local area. As someone who has a history in local government I understand the concerns of local residents when changes are made, buildings are erected or industry developments take place in their local community or neighbourhood that they feel affect their lifestyle.

**The Hon. Duncan Gay:** I tried to get some positive people from Crookwell.

**The Hon. HELEN WESTWOOD:** I acknowledge the interjection because my partner's family is from the Goulburn area and had a property at Tarago, which has been sold. I know there is a divergence of views in the area. Not everyone is opposed to wind turbines and not everyone considers the towers ugly and unattractive. I accept that there are plenty who do, but I also know there are many who do not.

**The Hon. Duncan Gay:** But there were people in the local community who were positive, and we got those to go to your committee.

**The Hon. HELEN WESTWOOD:** Most of the residents we heard from—contrary to the interjection—were people who were opposed to the proposal, mostly on aesthetic grounds. There were some concerns about noise pollution and concerns about the impact on the health of people who lived within a certain distance of the towers. I was not convinced that there would be significant detrimental impacts on people's health. I accept that this is a subjective view: if you feel that you are impacted by noise or a development, then that is your experience and you will report it.

The difficulty for us, as public policymakers and legislators, is to address the issues we face as a community and society in a way that has minimal detrimental impact on people's lives. I think this is one of those vexed areas. If we are serious about seeking alternatives to coal-fired power generation or energy generation that produces pollution and emissions, we really have to look at alternatives such as wind power, and that means wind farms have to be constructed and they have to be located somewhere. Clearly, people who live near such structures and do not like the look of them and are concerned about them will object. That is basically what we saw in most of the submissions and heard in most of what was said by witnesses to the inquiry.

However, witnesses raised some legitimate matters and these were addressed in some of the recommendations. We heard evidence about the financial arrangements. The thing that struck me was that some communities were divided by these developments. Those who received financial benefits and saw it as a way of continuing to farm and to have farming and industry co-exist on their property, and received quite a good financial return for it, were very pleased. Those who live near the wind farms and thought they were affected by them and received no financial return or compensation for what they saw as a detrimental impact on them were very angry and really resented the development. It was very clear from what a number of witnesses said that this issue has divided communities.

It is worth our while as a Government and as legislators spending some time to find an alternative system or model of compensation. One of the committee's recommendations looks at that aspect. There are some models in other jurisdictions, mostly in other parts of the world, that seem to go some way towards ensuring that neighbours could get fairer compensation or receive some payment. That is certainly worth exploring and I support the committee's recommendation in that regard. I do not think the problem is very difficult to overcome. I also accept that consideration should be given to purchasing affected properties and then if buyers choose to purchase those properties knowing that a wind farm has been approved for the site, that is a very fair and reasonable approach to the issue. They are the areas that I found very useful in the inquiry process.

Recommendations 7 and 10 in particular—members have already referred to recommendation 7—were about creating barriers and preventing the development of wind farms. With regard to recommendation 7, in my view the distance of two kilometres for the setback was an arbitrary distance that was plucked out of the air. When we asked where the figure came from the response was that as some council in South Australia had that distance in its guidelines it had been decided to adopt it. There was never any science behind the two-kilometre distance proposal. I was very pleased to hear Dr John Kaye's contribution in this regard because until I heard him speak I thought the Greens supported the two-kilometre recommendation. That surprised me because I saw that distance requirement as something that would prohibit the appropriate development of wind farms, which would seriously address the need for green power generation in this State. I was pleased to have that clarified by Dr John Kaye.

I was the only committee member who did not support recommendation 10, which is that the Minister for Planning increase the public exhibition period for environmental assessments of wind farms from 30 days to 90 days. That is three months! What other sorts of development applications require an exhibition period of that length? I was astounded that I was the only member who opposed that proposal. All it will do, I think, is prohibit the appropriate development of wind farms. There is no need for a period of 90 days. For goodness sake, 30 days is more than adequate. Perhaps it could be 60 days, but 90 days puts just another barrier in the way of the design and construction of wind farms, which are so important to our environment. I must say I found the experience of this inquiry quite useful and I learnt quite a bit from it.

**The Hon. Trevor Khan:** That is good.

**The Hon. HELEN WESTWOOD:** I acknowledge the interjection. I am a person who can always learn something, unlike the Hon. Trevor Khan. Overall I think the committee's recommendations are worthy of support and the inquiry was very worthwhile. [*Time expired.*]

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [3.34 p.m.]: I had not intended to speak on this matter when I entered the Chamber this afternoon but some of the comments that have been made today



have prompted me to say a few words. Firstly, I congratulate all the members of the committee on their diligence and on visiting areas affected by wind farms. I know that it was appreciated by the people who live in those areas. I live in Crookwell, one of the affected areas. Many members in this House know that I live in Crookwell, but people reading *Hansard* will not know unless I tell them. Our community is very much divided on this issue, as I am sure committee members found out on their visit. I would be hard pressed to say whether there is a majority one way or the other in my community. I think it is pretty close to 50:50. Because I have a problem with the process and the way it has been administered I think probably more people against the developments talk to me than those who are in favour of them. It was implied that the hearings were deliberately structured so that the people who gave evidence were against the proposals. I know of someone who is against them, but I went to a lot of trouble to get people who were in favour of wind farms to address the committee.

[*Interruption*]

If members opposite listen they might learn something and they will not repeat such stupid statements as they have already made.

**The Hon. Trevor Khan:** They are the chattering classes over there.

**DEPUTY-PRESIDENT (Ms Sylvia Hale):** Order! The Hon. Duncan Gay will resume his remarks.

[*Interruption*]

**The Hon. DUNCAN GAY:** Can we stop the clock if members opposite do not stop interjecting?

**DEPUTY-PRESIDENT (Ms Sylvia Hale):** Order! I would certainly give consideration to that.

**The Hon. Lynda Voltz:** Point of order—

**The Hon. DUNCAN GAY:** Do you want to make yourself look more stupid than you already have?

**The Hon. Lynda Voltz:** No, I am just asking for clarification on the ruling that the clock be stopped when members interject. I hope the Chair will be consistent.

**DEPUTY-PRESIDENT (Ms Sylvia Hale):** Order! It is appropriate that the clock be stopped if the debate appears to be being derailed by unnecessary interjections. I have no intention of doing so at the moment. However, I advise members that I will if I believe it is appropriate to do so.

**The Hon. DUNCAN GAY:** The obvious advantage of wind power is that it is the renewable part of electricity generation. The problems that arise in a community are particularly to do with the planning process. When part 3A of the Environmental Planning and Assessment Act is introduced and local consultation is removed from the issue, problems arise. We appreciate how good it is for some farmers to have a stable form of income that underwrites their farming enterprise. That is just terrific. In particular instances I have noticed groups of farmers in a region are getting together and saying, "We would like to generate wind power in this region in a particular area in this locality." In fact, some friends of mine in the Golspie area between Crookwell and Taralga are doing exactly that. All the people in that community have got together and want the development to go ahead. That is different from the areas where the real concern exists. In areas where developments are going ahead, people are looking after their neighbours and their mates, as true farmers do. They are all sharing in the return and they acknowledge that there are some houses that wind farms should not be near.

The inner city chattering class was telling us it is fabulous to have wind farms in the country but I bet if you asked them whether they wanted them in their area, there would be a real NIMBY response—not in my backyard. Government members would not want a wind farm on their streets or located within two kilometres of their inner-city properties. They would not want to worry about power outages or the loss of power along their transmission lines. I have spoken in this House on numerous occasions about the Dooley family, which lives in Crookwell. The Dooley family, which has farmed on its property since the 1820s, has right beside its farm the Crookwell 1 wind farm. The new wind farm is to be located on the Prella's property, which is located on the other side of the Dooley's farm. The first wind farm is located on the Seaman's property and the second wind farm is to be located on the Prella's property—both fine families are original settlers in that area. Those farmers would not do anything deliberately to jeopardise their neighbours; however, there is a problem with neighbour

on neighbour. As I said earlier, the Dooley family, whose property will be surrounded by wind farms, will get nothing other than the destruction of their heritage and the noise from the wind farms located on three sides of their property.

**The Hon. Lynda Voltz:** They don't want compensation.

**The Hon. DUNCAN GAY:** The Hon. Lynda Voltz said that the Dooley family, which does not want compensation, should contend with the noise that is emanating from these wind farms. The member is tolerant of many things, but if someone in rural New South Wales says something that goes against her ideologies she does not give consideration to anyone. Her family operation might organise part of the Labor Party, but that will not work on people in regional New South Wales. I found the earlier argument of the Hon. Lynda Voltz relating to no additional transmission lines facetious. Only a week ago I met with representatives from the Upper Lachlan Shire Council, who told me that they would have to link all these farms through a new 132-kilowatt transmission line.

That line would have to run from Paling Yards near Taralga—which is a good and supportable proposition—through to Golspie, with perhaps a new one at Roslyn and others at Crookwell 1, Crookwell 2, Crookwell 3 and Crookwell 4. Are members getting the picture? That will have a cumulative effect on our community. Government members have referred to the cumulative effect from coalmining and coal dust, but my community would have a cumulative effect from wall-to-wall wind generation. When some members of the community benefit from such proposals and others do not it impacts on land values in the area and on the quality of life and harmony in the community. That is why we are angry.

We become even angrier when we hear stupid comments such as those made earlier by the Hon. Lynda Voltz, who implied that people in regional areas were akin to the people portrayed in *Deliverance*. People are concerned, but their greatest concern relates to the part 3A process, which means that the community will have no say. The community will not have a say about issues that affect Colin Dooley and his family. Those decisions, which will now be made in Sydney, will have no local input. The council, which knows those local people, should at the very least have adhered to the recommendations of the community.

The future generation of energy in New South Wales relies on a good mix of renewable energy. Wind generation forms only part of that renewable energy mix. If we are to do this we require community support. However, if people are divided in the way in which my community has been divided and their rights are overridden, we will not get community respect or support, and New South Wales will be the loser. I congratulate the committee and all the members of that committee. The people to whom I spoke said that they were heartened by their approach, their concern and their humility when they visited their properties.

**Mr IAN COHEN** [3.44 p.m.], in reply: This interesting and stimulating debate covered a number of issues concerning wind farms: the rights of local communities, the need for better and cleaner energy generation strategies, and the need to move away from a coal-addicted economy. Wind power is a wise direction for us to go. In my role as chair of the committee that conducted this inquiry I learned a lot from visiting those regional communities. I acknowledge the statement made earlier by the Hon. Duncan Gay: There is concern and that concern should be taken into account. These communities should count, whether they are minority communities located a long way away, or whether they are of a different political genre. All communities have rights. In our deliberations we took into account the rights of minority communities.

I found some of the issues that were raised in debate interesting. Much of the debate relating to this inquiry is reactionary scaremongering. The Hon. Rick Colless was angry about a number of issues that were put forward, wisely, by the State Government, but they created a barrier to us working together. In his contribution he referred to serenity and to intrinsic values. The way in which people choose to live is extremely important. They are not living in the inner city beside railway lines or where they have the benefit of cultural inner-city activities, work, and so forth. That is their choice, in the same way as the Hon. Lynda Voltz chooses to live at Bardwell Park. When I was a kid I lived at Bardwell Park close to a train line and that noise disturbed me a great deal. That is something that people deal with when they choose to live in an area.

People who are living in relatively remote areas specifically choose to live in a quiet environment. It is a fair call that we should take note of their concerns, even though the ambient noise levels may be far lower than the ambient noise levels suffered by many others. Unfortunately we are divided on this debate. We are not looking at all the people in our communities and their different needs. I appreciated the earlier input of Dr John

Kaye. One of the things to which he did not refer was the two-kilometre setback. There are levels of interaction or opportunity, and I believe that neighbours living within that two-kilometre area should have a say. If it is not acceptable, that is a debate that we should have.

Another thing that is not acceptable to the New South Wales Greens relates to part 3A and the way in which the Government jackbooted many developments onto communities that have suffered greatly. We have two important themes: the rights of individuals and small communities as opposed to what might be termed good government projects in many instances. As an individual and as a member of this inquiry I have consistently said—this is my opinion that may be tested internally in my organisation—that part 3A ignores the rights of people in small communities. There must be another way. The Hon. Duncan Gay said earlier that local councils should have an input. Many strategies have been implemented as a result of inquiries and recommendations have been made about communities getting together. I do not believe that committee members visited *Deliverance* country; I believe that we visited an area of great hospitality. It was an area in which people, rightly or wrongly—I do not even say justifiably—were understandably upset by the imposition of these developments in their particular environment.

We need to take a step back, stop being so partisan and try to look at this clearly. I believe passionately in alternative energy, and wind farm development has a major role to play. I agree with the Government and John Kaye on that issue. Duncan Gay acknowledged the importance of this industry and its contribution to the regular inflow of capital and work opportunities for many farming people. We need to have this discussion. The community discussion in which the committee engaged was valuable in filling in some of the gaps. It is extremely important to remember that even with the best will and intentions in the world people get their backs up and get upset if we override local communities and people's rights. To one person, the flickering of a blade on a wind turbine generator may be nothing, but to others it may cause great distress.

I say quite blatantly: I understand that stress will be greater if someone knows their neighbour is receiving \$860,000 a year for having a wind farm on their property while they receive nothing and are less than a kilometre away from it. We must have some sharing. I spoke to one of the wind farm proponents who had not factored that into the economic balance of the development. Developers and the Government must factor in the human element: It is an important one that must be acknowledged. In no way does that remove the importance of wind farms and the comparative lesser impacts on neighbours of wind farms compared with coalmines and other forms of energy generation that involve a litany of major problems.

Does the end justify the means? How do we find an acceptable balance? We live in a series of communities and we should take note of how to find that balance. It is extremely important to be adaptable and have sympathy for those who are affected. This issue goes way beyond wind farms or any other development. We are talking about all sorts of developments. One minute everything can be fine and the next minute people find that the construction of high-rise buildings next door to them is being mooted. These situations have a massive impact on people; it has happened to me. I know what it is like. I am sure many other members have suffered similarly when massive developments that impact on people's lifestyles have occurred under part 3A. These problems are not necessarily that easy to quantify. The issue might be noise or coal dust, but it might also be an aesthetic value knocked out by bulldozers in one go because the Government declares a need for more building or community infrastructure in a particular place.

I am not saying one side is right and one side is wrong. I am constantly concerned about the lack of humanity of big governance that does not recognise that these types of developments impact deeply on many so-called little people. Again I sheet that blame home to part 3A. If we have more community consultation and local government can have more say, at least people might feel they are being heard. Currently, people are not being heard. This is an indictment of the Labor Government. As I have said, and will say time and again, this is a worthwhile project. We need to go the extra mile to facilitate better community relations. I am not concerned about the suggestion that a two-kilometre setback does not exist anywhere else in the world. Australia is a special landscape.

Cleared hills are not necessarily aesthetically pleasing; nevertheless, the very nature of that landscape means that a massive wind farm two kilometres away has a huge impact. The ambient noise level was low in many of those areas. A relatively low-level noise has a much more significant impact on those living in rural areas than on someone living in the inner city. In conclusion, I thank the committee members. We worked well together on the inquiry. It was a difficult task at times. A number of submissions held vastly opposing views on particular matters. I specifically thank Rachel Callinan, Beverly Duffy, Emily Nagle, Kate Mihaljek and Rhia Victorino for their hard work in preparing a worthwhile report. I hope it starts the debate. [*Time expired.*]

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

**Motion agreed to.**

**ASSENT TO BILLS**

Assent to the following bills reported:

Coroners Amendment (Domestic Violence Death Review Team) Bill 2010  
Mining and Petroleum Legislation Amendment (Land Access) Bill 2010  
NSW Self Insurance Corporation Amendment (Home Warranty Insurance) Bill 2010  
Transport Administration Amendment Bill 2010

**GENERAL PURPOSE STANDING COMMITTEE NO. 5****Report: Budget Estimates 2009-2010**

**Debate resumed from 23 February 2010.**

**Mr IAN COHEN** [3.56 p.m.]: As Chair of General Purpose Standing Committee No. 5 I make some brief observations and comments on last year's budget estimates hearings and the committee's report. Unfortunately, during this year's budget estimates hearings we will not be graced with the presence of former Minister Ian Macdonald to hear his creative answering techniques. However, I look forward to this year's budget estimates process to obtain some detail about what this Government is spending consolidated revenue on. The budget papers have become almost devoid of any details. In delivering my thoughts and comments on last year's General Purpose Standing Committee No. 5 budget estimates hearings I will focus on the hearings for the Environment and Climate Change, Primary Industries, Water and Rural Affairs portfolios.

Referring first to the hearings on Environment and Climate Change, one of the highlights for me during the session last year was hearing the Government's response that it did not support recreational hunting in national parks, despite attempts by the Shooters Party to introduce its games legislation. Needless to say, I was heartened by the Government's position on this matter, as would be most, if not all, people of New South Wales. I remember presenting the then Minister for the Environment, the Hon. John Robertson, with a list of national parks under consideration by Cabinet to be opened to recreational hunters. The Minister denied any familiarity with the list, but I believe everyone in the room realised the list was what Ian Macdonald and the Hon. Eric Roozendaal had suggested Cabinet support.

We must never forget that Ian Macdonald and the Treasurer supported recreational hunting in Kosciuszko National Park, a proposal far beyond the effective bounds of the wide-ranging pest eradication schemes currently employed in national parks. Waste management and resource recovery was another topic of questions and discussion during the hearing. Members may recall that I tabled a number of documents about New South Wales' waste management performance from a 2008 Hyder Consulting report entitled "Waste and Recycling in Australia". Based on that report, I raised concerns about the considerably lower levels of recycling, energy recovery, gas capture and leachate treatment in New South Wales compared with the Australian Capital Territory, South Australia and Victoria, but was told by the Government that differences in geographical area, population size and the efficacy of government policies and programs between the States make it difficult to accurately compare the performance of each jurisdiction. In response the acting deputy director did not address the questions and argued that the report lacked integrity and was not accurate.

Even assuming that the data used in the report had some flaws, the fact that on almost every key indicia of effective waste management we performed lower than the other States demonstrates that New South Wales is sliding backwards despite having the strongest price incentive of all States in the form of the landfill levy. We are dragging our feet and need to acknowledge that we have a lot to catch up on. I was surprised to hear the director general of the department say that he thought it was remarkable that, "Waste to landfill in New South Wales has increased only 3 per cent over the past few years, while the population is growing at between 1 per cent and 2 per cent per annum." I would hope that we could be a bit more ambitious. We can start by adopting a container deposit scheme instead of burying our heads in the sand while waiting for action at a national level. We also need to engage local councils in New South Wales and ensure they become a part of the national packaging covenant so that we are doing the best job we possibly can across all levels of government.

I raised concerns about the effectiveness of money spent from the New South Wales Climate Change Fund. Figures I provided last year, which were not disputed by the Department of Environment, Climate Change and Water, were that in 2007-08 the fund was able to account for savings in New South Wales emissions by

only 0.001 per cent. The department's response was that the fund was only part of the solution, that the fund is more focused on educating people, and that the purpose of the fund was to facilitate a much bigger transition than an emissions trading scheme would bring about.

Given that the Federal Government has embraced the path of cowardice and retreated from its promises to deliver an emissions trading scheme, having shelved it until at least 2013, I wonder whether it is not time to re-evaluate the role of the New South Wales Climate Change Fund. The fund could play a more cost-effective role in directly cutting emissions. Interestingly, after asking a number of questions about the relative cost effectiveness of different Climate Change Fund program streams, I now see that the latest annual report has the cost-effectiveness figures. I congratulate the department on incorporating this information.

During the hearing on the Primary Industries portfolio, pest management again became the focus of discussion. Inevitably the discussion about pest management turned to questions about the Shooters Party's Game and Feral Animal Control Amendment Bill. An examination of the transcripts shows that there were certainly some humorous exchanges and comments from the former Minister, Mr Macdonald. One of the best lines from the former Minister was that he is an avid supporter of recreational hunting in State forests—because it makes the native animals feel safer. His exact words in relation to recreational hunting were:

I think that is a great relief for our poor marsupial populations in our forests across the State.

The statement about the relief felt by poor marsupial populations was followed by an insightful quip by the Hon. Eddie Obeid, who stated:

I thought recreational hunters had done a good job protecting the scared and frightened marsupials.

Those men have long supported forestry operations that have decimated native fauna species, with scant regard for threatened species legislation. It is interesting, to say the least, for them to suddenly begin talking about recreational hunters as the saviours of poor marsupial populations. Even more interesting was the former Minister's implicit support for the introduction of private game reserves because other State jurisdictions have them. Heaven forbid that New South Wales hunters should miss out on the opportunities that their colleagues in other States enjoy, regardless of any threat that private game reserves will lead to an increase, not decrease, in feral animal populations! Perhaps the former Minister was hopeful that that would lead to New South Wales becoming a world-class tourist destination for those who want an authentic safari experience.

Also considered during the estimates hearing on the Primary Industries portfolio was the Government's Clean Coal Fund. The former Minister, Mr Macdonald, told the committee that in recognition of the current reliance on coal-fired power in New South Wales, the Government had allocated \$16 million in the budget out of a total of \$100 million over several years, to clean coal technology. But he was unable to provide details on how much funding was being directed to the National Centre for Rural Greenhouse Gas Research projects, despite that question having been taken on notice. When he was asked directly about the disparity between the funding of the two projects, the former Minister was able to confirm only in broad terms that the funding for the greenhouse gas research project would increase, but that that would not be determined until 2013.

I turn now to the estimates hearing on Water and Regional Development. The Minister indicated to the committee that the 2008 amendments to the Water Management Act and the Strategic Compliance Program in the Macquarie Valley had resulted in some improvements to wetland ecology and water flow throughout the system for all water users, although the experiences in water allocation and water use across the State showed that there was some way yet to go. Of particular concern to me during the hearings was the improvement of the condition of riverine and groundwater-dependent ecosystems that had been targeted in the State Plan. In spite of progress in the Great Artesian Basin due to the basin's cap-and-pipe bores program, it is worrying that, in the words of Mr Harriss, "there is a continuing decline as a consequence of the drought, and no recharge as opposed to continuing extraction by the groundwater; but that extraction has been limited by the new water sharing plans for those systems."

Considering the fact that better rainfall over the previous two years has been converted to general water security allocations rather than to improving environmental flows, the use of the drought as an excuse for continued pressure on groundwater aquifers is misleading at best. Compounding that is the scientifically unsound approach taken in most water sharing plans by the omission of consideration of the interrelationship

between groundwater and surface water—a fact that is difficult to reconcile with Minister Costa's statement to the committee that water sharing plans balance the need of all water users, including water needed for environmental purposes.

I found the number of areas traversed by the inquiry conducted by General Purpose Standing Committee No. 5 to be extremely interesting. I look forward to another budget estimates session, but hopefully with a Minister for Primary Industries who is receptive to reasoned argument and ideas, and who is not belligerent. From my perspective as chair of the committee that conducted the inquiry, the process was worthwhile. It was characterised by adequate transparency and discussion with Ministers. It provided members with a rare opportunity to ask many questions and follow specific lines of questioning in an endeavour to obtain a reasonable response from the Executive of the Government. I thank all staff of General Purpose Standing Committee No. 5 and Rachel Callinan. I commend the report to the House.

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

**Motion agreed to.**

#### **GENERAL PURPOSE STANDING COMMITTEE NO. 4**

##### **Report: Badgerys Creek Land Dealings and Planning Decisions—Second Report**

**Debate resumed from 25 February 2010.**

**The Hon. JENNIFER GARDINER** [4.06 p.m.]: I have previously commented on the momentous inquiry undertaken by General Purpose Standing Committee No. 4 into the land dealings at Badgerys Creek. Members may recall that the inquiry commenced last year after some rather sensational events involving Mr Michael McGurk, who was shot and killed outside his family home. Subsequently it was revealed that before his death, Mr McGurk had made an audiotape recording of a conversation between himself and property developer Mr Ron Medich. Mr McGurk alleged that the recording implicated senior New South Wales Government figures in bribery and corruption in relation to land dealings at Badgerys Creek. Mr Ron Medich and his brother, Mr Roy Medich, owned the land in question.

In September last year the Legislative Council referred terms of reference for the inquiry to General Purpose Standing Committee No. 4. The inquiry was conducted and an interim report was presented to the House. The committee was not able to report completely because during the hearings the committee committed a substantial number of questions to responses on notice. Moreover, committee members had submitted a number of written questions on notice to witnesses after each hearing. The witnesses provided a response to each question taken on notice, with one exception, and that was Mr Graham Richardson.

Mr Graham Richardson appeared as a witness at the committee's second hearing in October last year. Subsequently the committee's secretariat wrote to him seeking answers to a question taken on notice during the hearing and answers to written questions on notice from committee members that were submitted after the hearing. Mr Richardson was asked to respond to the questions taken on notice by a particular deadline in October, but no response was received by that time. Then Mr Richardson indicated verbally to the secretariat that he would not be providing a response to the questions taken on notice. The committee did not receive any written confirmation from Mr Richardson in relation to that particular matter.

Last year on Remembrance Day the committee had a meeting and, following a resolution of the committee, wrote to Mr Richardson and requested him to answer the questions submitted on notice by a particular deadline, which was later that month. The committee also submitted an additional written question on notice, which I wrote. That was also sent to Mr Richardson. He was asked to reply by a certain deadline. He was told that if he declined to answer the questions on notice the committee would consider whether to issue him with a summons to attend a hearing to give further evidence. Mr Richardson then provided an interim response to the questions placed on notice but questioned the authority under which the committee was acting. I am grateful to the Clerks for their assistance in providing the relevant advice to Mr Richardson, which we did on the same day, detailing the committee's powers to seek answers to questions on notice.

The committee then considered a draft report. It considered the fact that Mr Richardson had outstanding answers to the questions on notice, and it decided that the answers to the questions asked of Mr Richardson could have added to or changed the outcomes of the inquiry and so could affect its final report.

Mr Richardson's failure to respond made it difficult for the committee to complete the task that the House had asked it to do. So the committee resolved to table its substantive report and seek an extension of time to allow the committee to prepare a supplementary report if necessary. The committee then invited Mr Richardson to attend a hearing in December and answer questions from the committee. He agreed to appear voluntarily, and during that appearance he answered a number of questions, including questions relating to the taped conversation between Mr McGurk and Mr Medich.

**The Hon. Trevor Khan:** Amongst other things.

**The Hon. JENNIFER GARDINER:** Amongst an extraordinary range of other things. In the meantime the Independent Commission Against Corruption was running what might be called a parallel inquiry into matters relating to the claims about Mr McGurk's tape. The committee noted the work of the commission; in particular the committee welcomed the publication of the commission's findings in relation to the allegations by Mr McGurk. The commission noted that there was no clear evidence that the meetings or communications between planning officials and proponents and representatives of the Badgerys Creek consortium influenced planning decisions regarding the Medich site; the consortium's land has not been rezoned and the efforts of the landowners and their representatives, particularly lobbyist Mr Richardson, have to date been unsuccessful in achieving any commitment to rezoning in the near future. In the meantime the Government, via the Department of Premier and Cabinet, recently responded to the recommendations.

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

## **COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

### **Membership**

**The DEPUTY-PRESIDENT (The Hon. Kayee Griffin):** I report the receipt of the following message from the Legislative Assembly:

MADAM PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That Victor Michael Dominello be appointed to serve on the Committee on the Independent Commission Against Corruption in place of Gregory Eugene Smith, discharged.

Legislative Assembly  
9 June 2010

RICHARD TORBAY  
Speaker

## **BUSINESS OF THE HOUSE**

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

**The Hon. CATHERINE CUSACK** [4.13 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. 275 outside the Order of Precedence, relating to an order for papers regarding container waste management, be called on forthwith.

This matter is urgent because we must access documents in a reasonable time prior to the meeting of State and Federal environment Ministers on 5 July to discuss a national container deposit scheme. It is vital that we access these documents before that meeting is held. The reports being requested under a call for papers are taxpayer funded and should have already been made public according to the normal protocols of the Commonwealth and State Environment Protection Heritage Council. The policies contained in these reports affect every man, woman and child in this State. The core proposal for a container deposit scheme is immensely popular with the public, but there is a growing sense that public opinion and public interest are being throttled by big business behind closed doors.

**The Hon. Penny Sharpe:** Point of order: The member is not addressing the issue of urgency in this debate. That is a common problem in this Chamber. The member should be asked to address why this matter should be debated ahead of all other items on the *Notice Paper* today.

**The Hon. CATHERINE CUSACK:** To the point of order: I am precisely addressing the issue of urgency. I have nominated when the meeting is being held. I am about to go through the timetable that would be required if this motion passes so that those documents can be available prior to that meeting. The timing that I am outlining to the House is the precise reason for urgency, if the Parliamentary Secretary would only let me complete my remarks.

**The DEPUTY-PRESIDENT (The Hon. Kayee Griffin):** Order! I uphold the point of order. The Hon. Catherine Cusack is debating the issue. The member with the call must address why this item of business is more urgent than other business on the *Notice Paper*.

**The Hon. CATHERINE CUSACK:** The Commonwealth and State Ministers meeting is to be held on 5 July, and there is a perception that the documents are being covered up in the lead-up to that meeting. In the event that this motion is passed today, the documents will be available about 23 June, which is 12 days prior to the meeting, which will give members of the public time to look at the documents. The taxpayer-funded documents canvass the community's willingness to embrace a container deposit scheme. It is in the public interest that the documents be made public. We do not understand why the documents have not been made public and that is why we are urgently calling for the release of the documents. I ask all members to support this motion calling for papers.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.16 p.m.]: This matter is not urgent, and the Government is trying to get through a list of legislation today. It is important for members to understand why a call for papers relating to a container deposit scheme is not urgent. The PricewaterhouseCooper study and the Australian Bureau of Agricultural and Resource Economics report are not final documents, and the bureau has not completed its review of the Willingness to Pay study. The Government wants debate on any potential container deposit scheme to be based on the best available information. The release of incomplete draft material, with factual errors, into the public domain prior to the completion of a proper peer review process would be counterproductive. Increasingly in this Chamber members want information about incomplete papers whose release into the public domain would be irresponsible.

However, in relation to this motion specifically, there is no urgency because the documents will be finalised for a review by the environment Ministers at their national council meeting in July, as the Hon. Catherine Cusack acknowledged. There is no urgency as releasing the current drafts into the public arena has the potential to create confusion and misinformation. The release of drafts with incorrect information would be counterproductive. The member has not made a case for the urgency of this matter. Releasing draft material is not reasonable when it will eventually be in the public domain anyway. As mentioned earlier, releasing the current drafts has the potential to create confusion. The documents are being prepared and will be available for the meeting on 5 July. The documents are being prepared at the request of the Australia council of environment Ministers. Releasing the documents prematurely because the New South Wales Opposition has decided that it wants the documents before the meeting is inappropriate, and it is not something the Government is prepared to accept.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 18**

Mr Ajaka	Mr Gay	Mr Pearce
Mr Clarke	Ms Hale	Ms Rhiannon
Mr Cohen	Dr Kaye	
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	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	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Moselmane	Mr Smith	Ms Voltz



**Pair**

Mr Lynn

Mr Roozendaal

**Question resolved in the negative.****Motion negatived.****COMMUNITY RELATIONS COMMISSION AND PRINCIPLES OF MULTICULTURALISM  
AMENDMENT BILL 2010****Second Reading****Debate resumed from an earlier hour.**

**The Hon. SHAOQUETT MOSELMANE** [4.26 p.m.]: I support this bill. This is a bill that strengthens the principles of multiculturalism and better equips the Community Relations Commission to perform its functions. One of the salient and practical ways the commission performs its function of promoting social justice and the principles of multiculturalism through a number of services is through the administration of the Community Development Grants Program. In accordance with funds allocated under the 2010 State budget, the commission forecasts that 110 community organisations will benefit from its grants program. The program has been developed to support the objectives set out in the Community Relations Commission and Principles of Multiculturalism Act 2000, and reflects the Government's State Plan commitment to cultivate strong, inclusive communities where every citizen feels valued and has the opportunity to realise her or his potential.

The Keneally Government is delighted to be able to assist worthwhile projects through Community Development Grants. Funding is provided under the following three categories: local partnership grants, general grants and sponsorship grants. The priority areas for funding are small ethnic communities, communities that are geographically or socially isolated, projects that promote community harmony and mutual understanding between and within communities of different cultural and religious backgrounds, developing community networks and structures, and promoting cultural diversity at a local level. As part of this program the Government is funding a number of important social projects including one for the Sudanese community in south-western Sydney.

I understand that the Sudanese Australian Association will receive \$10,900 under the Community Development Grants Program to tackle social issues affecting women and elders in the Sudanese community in south-western Sydney. This is a very important project required to address issues confronting this mainly refugee community. They include child protection, discipline, domestic violence and racism. The project will involve organising workshops where women and elders will be trained as community facilitators to help discover and share cultural knowledge. The idea is to produce a DVD dealing with these social issues to assist educators, community workers and service providers across New South Wales. The DVD will then be promoted to the Sudanese community and the wider community through organised discussion sessions, forums and existing community groups. The Sudanese people who have come to make a new life in Australia are amongst the neediest in our community. Many have come from difficult experiences in refugee camps, camps that in some cases they have lived in for years. However, they are already making a considerable contribution to our society.

Another grant that is worthy of note is \$13,600 to the Liverpool Migrant Resource Centre for a program aimed at assisting the emerging Ethiopian community in south-western Sydney. The Australian Ethiopian Multicultural Language and Settlement Program aims to support newly arrived refugee women from Ethiopia to settle, participate and integrate into the local community. The idea is to give the women training in how to organise a group, and how to draw up governing documents, develop action plans, manage meetings, organise events and handle budgets. This will give the women the tools they need to address day-to-day issues in areas such as housing, education, employment and childcare. The Ethiopian community is very young in its time in Australia and its members are, naturally, having to come to terms with many unfamiliar processes while settling into a routine of life in a very different cultural environment from that of their homeland. Assisting newer arrivals, such as Ethiopians or isolated people amongst older migrant communities, to more fully participate in the life of New South Wales helps to build stronger and more harmonious communities.

These are just some of the examples of how the Government helps organisations through the Community Development Grants Program of the Community Relations Commission. They demonstrate that the principles of multiculturalism are not just ideas. They translate into real benefits for communities and that is why I am proud to support a bill that reaffirms the Government's commitment to building inclusive communities where every citizen is able to celebrate his or her heritage.

The main purpose of the bill is to implement recommendations made by the report on the review of the Community Relations Commission and the Principles of Multiculturalism Act 2000. The review acknowledges—and I stress—the success of the Act and the principles of multiculturalism. We will always find someone who wants to spoil or tar a successful story. Multiculturalism has been and is just that: a successful story. If allowed to continue, it will prove most profitable for each and every Australian for generations to come. The bill seeks to strengthen the key principles of multiculturalism and I hereby reiterate its success. Sections 3 (1) and 3 (2) of the Act elevate the reference to the importance of shared values within a democratic framework.

Let us pause for a tick and think about the phrase "shared values within a democratic framework". The meaning of those words must not be twisted, muddled or misunderstood. The words must be read in the context and the spirit of the Act. They mean—and I wish to have this clearly spelt out—shared multicultural values of a multicultural society, that is, the values of a society made up of a diverse mix of cultures, attitudes and outlooks built upon the foundations of justice, equality, fairness, and an Aussie sense of fair go for all Australians—a fair go for all, irrespective of culture, language or religious background.

Contrary to what some in this House would have us believe, it does not refer to the shared values of a single community or a single religion. It does not refer to Italian, Greek, Arabic, English, Irish, Russian or Indian values. Nor does it refer to Buddhist, Christian, Islamic, Jewish or Sikh religious values. That must be made quite clear and not read in such narrow perspective. The legislation—and the amendments to it—is about shared values of our Australian multicultural community made up of over 200 backgrounds. We are proud of the fact that we have people from some 200 birthplaces, with over 20 per cent of the population speaking a language other than English. The Government believes that these skills, traditions and different backgrounds make our State one of the most interesting and vibrant places in the world. That is why in 2000 the Government advanced multicultural policy into the twenty-first century, and did so through legislation.

The bill also introduces a number of amendments. It amends section 13 (c) of the Act, clearly articulating as a function of the commission the undertaking of proactive research to identify potential issues relating to community harmony. It amends sections 13 (f) and 13 (g) of the Act to better recognise and facilitate the commission's role in coordinating New South Wales government agency strategies to address emerging issues relating to cultural diversity. It facilitates the commission's function under section 13 (i) to provide interpreter services in relation to linguistic diversity and certain provisions of the Privacy and Personal Information Protection Act 1998, and the Health Records and Information Privacy Act 2002. Finally, it clarifies the commission's advisory function in relation to the Anti-Discrimination Board of New South Wales to better reflect the shared interest of the two statutory bodies in relation to discrimination and racial vilification, and to formalise the commission's function in making references to the Anti-Discrimination Board.

The New South Wales Government was the first in the nation to legislate to give statutory recognition to the principles of multiculturalism and it established the then Ethnic Affairs Commission to coordinate government support for multicultural community events. Ours is a great State because of the commitment shown by people of diverse cultural backgrounds to our public life, our economy and our social fabric. The Government is proud of the social cohesion that exists in this State and is committed to ongoing practical support of our rich cultural diversity.

I repeat some of what I said the other day on the subject of reconciliation. I said that one of the most important assets of any nation is not its natural resources, nor is it advances in technology or the development of trade; it is the nation's people. It is people living in peace and harmony to ensure a stable and harmonious community and society. No community deserves to be isolated, victimised, marginalised, or made to feel outcast or out of place, or that it is second-class. Every individual must be made to feel that he or she is an important member of society, like any other member of that society, with the same rights, privileges and responsibilities under the law.

No community should be allowed to be victimised by any other section of the community or by governments or political organisations. No-one should be allowed to introduce laws to suppress or oppress

people and remove their right to free speech and free expression of their sociopolitical and religious views and habits, so long as they are not contrary to the law of the land. No-one should be allowed to impose his or her views on the rights and privileges of other citizens. For peace and harmony to exist we must ensure that we respect each other and the rights of all as equals, be they rich or poor, Aboriginal or non-Aboriginal, Christian, Muslim, Jewish, Buddhist—able or disabled. All deserve to be respected and allowed to feel at one with the community in which they live. The bill seeks to ensure that we reinforce this and that we celebrate culture and support communities, and make our great State a more welcoming and vibrant society. I commend the Minister for introducing the bill and I commend the bill to the House.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.38 p.m.], in reply: I thank honourable members for their contributions to this debate. As all or most of the speakers have acknowledged, one of the great strengths of New South Wales is the commitment shown by people of many different cultural backgrounds to our public life, our economy and our social fabric. This bill represents a strengthening of the role of the Community Relations Commission in cultivating community harmony within our State. It has been the subject of extensive consultation and has very broad support across the community. I understand the Greens intend to move some amendments to the bill. The Government will support some but not all of them. I will detail the reasons 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.**

**Dr JOHN KAYE** [4.40 p.m.]: I move Greens amendment No. 1:

No. 1 Page 3, schedule 1 [1], lines 11 and 12. Omit "are free to profess and practise their heritage". Insert instead "are free to profess, practise and maintain their own linguistic, religious, racial and ethnic heritage".

This simple amendment seeks to restore the language of the Act to make it clear that heritage in respect of the objectives of multiculturalism is very clearly the heritage that derives from linguistic, religious, racial and ethnic practices. The way the objectives are written in proposed principle of multiculturalism (1)(a) is such that the very complex issues to do with language, religious, racial and ethnic behaviour are reduced to "heritage". It is important that the legislation recognise the full range of ingredients that make up heritage.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.42 p.m.]: The Government does not oppose this amendment. It is not particularly essential to the bill and probably is not necessary, but we are not so unhappy with it that we will oppose it.

**The Hon. JOHN AJAKA** [4.42 p.m.]: The Opposition does not oppose the amendment. The term "heritage" covers all the matters raised by Dr John Kaye but we agree with him about the need for clarity. Accordingly, we will not oppose the amendment.

**Question—That Greens amendment No. 1 be agreed to—put and resolved in the affirmative.**

**Greens amendment No. 1 agreed to.**

**Dr JOHN KAYE** [4.43 p.m.]: I move Greens amendment No. 2:

No. 2 Page 3, schedule 1 [1], lines 13–18. Omit all words on those lines. Insert instead:

- (b) all individuals in New South Wales, irrespective of their linguistic, religious, racial and ethnic backgrounds, should be encouraged to develop a commitment to Australian society, its interests and future and a recognition of shared values governed by the rule of law within a unified democratic framework,

This amendment seeks to address a philosophical difference. Proposed principle of multiculturalism (1) (b) states that all individuals in New South Wales, irrespective of their linguistic, religious, racial and ethnic backgrounds,

should demonstrate a unified commitment to Australia, its interests and future, and should recognise the importance of shared values governed by the rule of law within a democratic framework. We have no difficulty with the concept of shared values. We do, however, have difficulty with the idea of demonstrating a unified commitment to Australia. It sounds dangerously jingoistic and as though we are expecting people by dint of their linguistic, religious, racial and ethnic background to be suspect that they do not have a commitment to Australia and should have to demonstrate it. What exactly does demonstration mean? Does it mean wearing an Australian badge? Does it mean one needs to drape oneself in the Australian flag because one comes from an ethnic background other than the supposed dominant Anglo-Saxon background? It smacks of legislated jingoism. It is certainly nodding in the direction of a kind of chauvinism that has spread throughout our society, and that in and of itself is dangerous.

Secondly, the proposed section states that all individuals should recognise the importance of shared values. Both in terms of demonstration and recognition it is imposing on people how they should behave and how they should relate to Australia. This country remains a democracy, not just for those of Anglo-Saxon descent but for all Australians. Australians are free to make decisions about how they feel about their country, how they talk about their country and what aspects of their country they recognise. We therefore feel a more sensible way of expressing this is to say that all individuals in New South Wales, irrespective of their linguistic, religious, social and ethnic backgrounds, should be encouraged to develop—rather than demonstrate—a commitment to Australian society, which is an appropriate principle for a government policy.

Rather than a jingoistic commitment to Australia, we are proposing a commitment to society itself, that is to a group of people, a sum of people that of course is greater than each of the individuals. We go on to refer to a "recognition of shared values". Recognition is to be encouraged rather than mandated by a principle. We think this is a far less jingoistic and instructive form of wording for the principles, and we commend the amendment to the Committee.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.46 p.m.]: The Government does not support this amendment. There was a general consensus in submissions to the review of the Community Relations Commission and Principles of Multiculturalism Act conducted by Ms Irene Moss that the broad policy objectives of the Act are still relevant. Submissions endorsed the four principles of multiculturalism. However, the issue of shared values and a unifying commitment to Australia, its laws and institutions was addressed by a number of submissions. Consequently, the Moss review's very first recommendation proposed that references to a shared commitment to Australia, its laws and institutions should be located earlier in the relevant section of the Act. That is why the Government has sought to strengthen the principles of multiculturalism by elevating these references to earlier in section 3 of the Act.

These reforms do not dilute the Government's commitment to cultural diversity, nor do they impose onerous requirements on people simply because they hail from a culturally or linguistically diverse background. Instead, they enunciate that true cultural diversity and freedom to celebrate that diversity in harmony is to be found in a commitment to the universal human values of democracy and the rule of law, values on which our nation is founded. The Community Relations Commission advises that Greens amendment No. 2 weakens the principles of multiculturalism and undermines the policy objectives of the Act. I understand that the Greens have a different view about this; however the Government, for the reasons I have stated, opposes the amendment.

**The Hon. JOHN AJAKA** [4.48 p.m.]: The Opposition does not support Greens amendment No. 2, firstly for many of the reasons outlined by the Parliamentary Secretary, which I will not repeat, but also because one has to look at proposed section (1) (b) in line with all the other principles, in particular paragraph (a), which the Greens have successfully amended. When one reads all the principles one does not see the limitation or the strict interpretation of paragraph (b) that Dr John Kaye sees. Also, if one is to ask how one proves or demonstrates a unified commitment to Australia, one might say that the same question could be asked about how one establishes that a person has been encouraged to develop a commitment to Australian society. I believe the wording of the proposed section is sufficient, and for that reason the Opposition will not support the amendment.

**Reverend the Hon. FRED NILE** [4.49 p.m.]: On behalf of the Christian Democratic Party I do not support the amendment. The Greens proposed amendment would make paragraph (b) very nebulous. At the moment the wording of paragraph (b) does have some meaning.

**Dr JOHN KAYE** [4.50 p.m.]: I thank members for their contributions to debate on this amendment, and I appreciate where they are coming from. In her contribution to debate on the amendment the Parliamentary

Secretary referred to placing this principle higher in the list of principles. The Greens have no difficulty with that and our amendment would not change it. We are not deleting the words "commitment" or "shared values"; under our amendment the words "commitment" and "shared values" would remain in the list of principles. However, we are taking away what we believe to be the quite odious concept of a unified commitment, which suggests that everybody has to share a single commitment rather than the diverse style of commitments that individuals might seek to make.

We are taking away the concept of people needing to demonstrate. For example, we are removing the words "should demonstrate this commitment" and "should recognise" and we are replacing them with what we believe to be a policy objective. I do not agree with the Opposition spokesperson; I do not think it makes it more nebulous at all. On the contrary, it makes it a clearer and more measurable objective when we ask whether or not the Government is encouraging this behaviour. That can be measured. We can look at policies and we can assess those policies against their capacity to encourage.

**The Hon. John Ajaka:** I did not say that; Reverend the Hon. Fred Nile said that.

**Dr JOHN KAYE:** I retract my statement. I imputed the word "nebulous" to the Opposition spokesperson, Mr John Ajaka, and that is not true. So I now address my remarks to Reverend the Hon. Fred Nile. I do not think it makes it more nebulous or less measurable. Indeed, I think it makes it more concrete because the activities of government are something that we can measure. I refute the criticisms of the Greens amendment. Indeed, the Greens amendment would strengthen the commitment in the legislation to multiculturalism by making it something that everybody could get behind. The Greens are deeply concerned about the concept of demonstrating a unified commitment and recognising the importance of such a commitment. We are talking about what individuals might or might not do rather than what we should be talking about, which is about government policy. We also remain convinced that this is a step towards a much more jingoistic interpretation of multiculturalism rather than a more open and inclusive definition.

**Question—That Greens amendment No. 2 be agreed to—put.**

**The Committee divided.**

**Ayes, 4**

Mr Cohen  
Ms Rhiannon  
*Tellers,*  
Ms Hale  
Dr Kaye

**Noes, 25**

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Catanzariti	Mr Mason-Cox	Mr Veitch
Mr Clarke	Mr Moselmane	Ms Voltz
Mr Della Bosca	Reverend Nile	Mr West
Ms Fazio	Mr Obeid	Ms Westwood
Ms Ficarra	Ms Parker	
Mr Gallacher	Mrs Pavey	<i>Tellers,</i>
Miss Gardiner	Mr Primrose	Mr Colless
Mr Gay	Ms Robertson	Mr Donnelly

**Question resolved in the negative.**

**Greens amendment No. 2 negatived.**

**Dr JOHN KAYE** [5.00 p.m.]: I move Greens amendment No. 3:

Page 3, schedule 1 [1], lines 35–38. Omit all words on those lines. Insert instead:

- (2) Parliament recognises that the principles of multiculturalism are based on the rights and responsibilities of all people in a multicultural society.

This amendment seeks to address what the Greens believe is a problem with proposed section 3 (2), Principles of multiculturalism, on page 3 of the bill, which states, somewhat bizarrely:

- (2) Parliament recognises that the principles of multiculturalism are based on citizenship.

The bill then goes on to state:

The expression *citizenship* is not limited to formal Australian citizenship, but refers to the rights and responsibilities of all people in a multicultural society.

We believe the insertion of the word "citizenship" is unnecessary and damaging, and creates unnecessary stress on citizenship issues rather than focussing on the issues of rights and responsibilities. This amendment leaves the meaning of the section in tact but removes the word "citizenship". Effectively, we then have a statement that talks about the principles of multiculturalism based on the rights and responsibilities of all people in a multicultural society, regardless of their citizenship status. I commend the amendment to the Committee.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.01 p.m.]: The Government opposes this amendment. The Government believes the amendment undermines the discourse of multiculturalism by divorcing it from the notion of citizenship. When we talk about citizenship, we are not just talking about actual citizenship status. Beyond its literal meaning, citizenship is about our collective identity and what it means to be Australian; it is about living in a country where there is freedom to celebrate cultural diversity and living in a place where multiculturalism has reinvented our national personality. We live in a country where the Constitution has served us well as the foundation of a balanced government and constitutional democracy for over a century.

The Government believes that sometimes we take for granted the issues of an independent judiciary: the system of government that is held in check by a separation of powers and a system of suffrage that allows people to hold governments to account. The Government believes that by removing the reference to citizenship the Greens amendment erodes a cornerstone that underpins and guarantees community harmony and diversity, and plays down the importance of the rights of citizens. The Government believes the word should remain. We oppose the amendment.

**The Hon. JOHN AJAKA** [5.02 p.m.]: The Opposition opposes the amendment. If proposed subsections (1) and (2) merely stated, "Parliament recognises that the principles of multiculturalism are based on citizenship", I would agree with Dr John Kaye. However, the proposed subsection goes on to say that the expression of citizenship is not limited to formal Australian citizenship and refers to the rights and responsibilities of all people in a multicultural society. It is all encompassing, not simply a limited subsection. With respect to Dr John Kaye, the amendment is not necessary.

**Dr JOHN KAYE** [5.03 p.m.]: It appears that we all agree that citizenship is not the issue; the Parliamentary Secretary referred to it as collective identity. We all agree with that. We just do not agree on whether the word "citizenship" should appear in this proposed subsection. My concern is that "citizenship" and "collective identity" have different meanings. By including "citizenship" we are attracting all sorts of other values to this principle of multiculturalism that should not be there. I commend the amendment to the Committee.

**Question—That Greens amendment No. 3 be agreed to—put.**

**Division called for and Standing Order 114 (4) applied.**

**The Committee divided.**

**Ayes, 4**

Mr Cohen  
Dr Kaye  
*Tellers,*  
Ms Hale  
Ms Rhiannon

**Noes, 25**

Mr Ajaka	Mr Khan	Ms Sharpe
Mr Catanzariti	Mr Mason-Cox	Mr Veitch
Mr Clarke	Mr Moselmane	Ms Voltz
Mr Della Bosca	Reverend Nile	Mr West
Ms Fazio	Mr Obeid	Ms Westwood
Ms Ficarra	Ms Parker	
Mr Gallacher	Mrs Pavey	<i>Tellers,</i>
Miss Gardiner	Mr Primrose	Mr Colless
Mr Gay	Ms Robertson	Mr Donnelly

**Question resolved in the negative.**

**Greens amendment No. 3 negatived.**

**Dr JOHN KAYE** [5.07 p.m.], by leave: I move Greens amendments Nos. 4 and 5 in globo:

No. 4 Page 4, schedule 1 [2] and [3], lines 1–5. Omit all words on those lines.

No. 5 Page 4, schedule 1 [4], lines 6–9. Omit all words on those lines.

These amendments address the objectives of the commission rather than principles of multiculturalism. Amendment No. 4 seeks to maintain the benefits of cultural diversity. The Greens are concerned that items [2] and [3] of schedule 1 to the bill seek to crunch down two objectives and in the process lose focus on the benefits of cultural diversity. This amendment will insert the promotion of the principles of multiculturalism. We accept the argument that there is much crossover between the principles of multiculturalism and the benefits of cultural diversity, but we believe quite strongly that that focus needs to be maintained. Amendment No. 5 similarly seeks to maintain direct reference to the development of community issues for ethnic communities rather than simply for "community development". The word "ethnic" was lost from the commission's name in the 2000 legislation. It is important that focus is maintained on ethnicity as one of the driving forces of multiculturalism. We therefore seek to remove clause 4 of the bill and retain the existing wording of the legislation.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.09 p.m.]: The Government does not oppose these amendments. In relation to amendment No. 4—in line with the recommendations arising from the Moss review—the bill restates section 12 (d) of the Act as an objective for society, rather than an objective of the commission. The bill omits section 12 (e) because it is tautological, given that the principles of multiculturalism already promote the advantages of a multicultural society. The Government feels that the amendment is unnecessary, but we do not have a problem supporting it. In relation to amendment No. 5, the bill amends section 12 (f) to better reflect the inclusive spirit of the Act and the Government's broader policy objectives relating to community relations. The Government believes the amendment is unnecessary, but will not oppose it.

**The Hon. JOHN AJAKA** [5.10 p.m.]: The Opposition will not oppose amendment Nos 4 and 5. I will not repeat the reasons that have already been outlined by Dr John Kaye and Parliamentary Secretary Sharpe. It is sufficient to say that there is agreement on the amendments.

**Question—That Greens amendments Nos 4 and 5 be agreed to—put and resolved in the affirmative.**

**Greens amendments Nos 4 and 5 agreed to.**

**Dr JOHN KAYE** [5.11 p.m.]: I move Greens amendment No. 6:

No. 6 Page 4, schedule 1 [6], line 18. Omit "single coordination point for integrated". Insert instead "coordination point for".

This amendment refers to the functions of the Community Relations Commission. The bill seeks to devolve a new function to the commission, which is to provide a single coordinated point for integrated responses to emerging issues associated with cultural diversity. That suggests to the Greens that, first, the Community Relations Commission will be the only coordination point, and there will be no other coordination points and, secondly, that the response has to be integrated—in other words, it has to be a single response. Given that we are dealing with a highly diverse ethnic community, with a range of views and attitudes as well as a range of

structures within those communities, an attempt to impose a single coordination point implies a level of trust of the Community Relations Commission that I doubt exists within the diverse communities that comprise New South Wales. An attempt to create an integrated response inevitably means that minority voices will be lost and that a range of opinions will be valid, despite not being held by the majority of communities but nevertheless are held by some members of some communities, and that would be considered to be inappropriate in a diverse multicultural society. The Greens amendment effectively deletes the words "single" and "integrated".

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.13 p.m.]: The Government does not support Greens amendment No. 6. We believe that if the amendment is passed, it will water down the intent of the recommendations of the Moss review. The review found it necessary to clearly articulate that, in relation to issues impacting on community harmony arising from issues of cultural diversity, it will be a function of the commission to act as the single coordination point. The Community Relations Commission has advised the Government that the Greens amendment would limit the commission's role in responding to the emerging multicultural issues. Consequently, the Government will not support the amendment.

**The Hon. JOHN AJAKA** [5.13 p.m.]: The Opposition opposes Greens amendment No. 6. There is a good deal of sense in having one single coordination point for issues that are vital to New South Wales. However, if the commission fails in its function to deliver appropriately, one should examine the commission to see why it is failing in making the necessary changes, as opposed to having other bodies dealing with it. Nothing in this section that provides the commission as a single coordination point takes anything away from the function or powers of other authorities, such as the Anti-Discrimination Board, which still complies with the powers and functions under its respective Acts.

**Reverend the Hon. FRED NILE** [5.14 p.m.]: The Christian Democratic Party does not support the amendment. It seems to weaken or undermine the role of the Community Relations Commission, which rather should be strengthened.

**Question—That Greens amendment No. 6 be agreed to—put and revolved in the negative.**

**Greens amendment No. 6 negatived.**

**Schedule 1 as amended agreed to**

**Schedule 2 agreed to.**

**Title agreed to.**

**Bill reported from Committee with amendments.**

#### **Adoption of Report**

**Motion by the Hon. Penny Sharpe agreed to:**

That the report be adopted.

**Report adopted.**

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

#### **NATIONAL PARKS AND WILDLIFE AMENDMENT (VISITORS AND TOURISTS) BILL 2010**

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

**Motion by the Hon. Penny Sharpe agreed to:**

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

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



**COMMERCIAL ARBITRATION BILL 2010****Second Reading****Debate resumed from 12 May 2010.**

**The Hon. DAVID CLARKE** [5.19 p.m.]: The Commercial Arbitration Bill 2010 states that its paramount object is "to facilitate the fair and final resolution of commercial disputes by impartial tribunals without unnecessary delay or expense". The Opposition is not opposing the bill but it will be moving amendments to clause 27D, which deals with the power of an arbitrator to act as a mediator, conciliator or other non-arbitral intermediary. The bill states:

The Bill encourages the use of arbitration as a means of resolving domestic commercial disputes and harmonises the procedures for resolution of such disputes with those applicable to the resolution of international commercial disputes under the *International Arbitration Act 1974* of the Commonwealth.

It adopts the provisions of the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration, taking into account the Commonwealth Act and with modifications for domestic commercial arbitration in order to facilitate the bill's purpose. The bill also contains some additional provisions to support the arbitration process, as well as some optional provisions that may be used by the parties to an arbitration agreement should a dispute arise between them. The bill repeals the Commercial Arbitration Act 1984, putting in its place a new framework for dealing with domestic commercial arbitration. In his second reading speech the Attorney General said that the current Act, which is part of uniform domestic arbitration legislation across all States and Territories, has not kept pace with changes in international law.

In April 2009 the Standing Committee of Attorneys General agreed that the United Nations Commission on International Trade Law model would form the basis for the reform of domestic arbitration legislation, and in May of this year it agreed to update the law by implementing a specific model commercial process based on the United Nations Commission on International Trade Law model so as to bring about a consistency within State and Territory jurisdictions that would harmonise with international practice. The Attorney General has cited as benefits accruing from the adoption of that model law, first, legitimacy and familiarity worldwide with the model; secondly, national consistency in the regulation and conduct of international and domestic commercial arbitration; and, thirdly, the ability of practitioners and courts to draw upon case law and practice in the Commonwealth and overseas.

I turn now to the specific terms of the bill. It is stipulated that the bill applies only to domestic commercial arbitrations. A domestic arbitration is defined as one where the parties have, at the time of the conclusion of the agreement, their places of business in Australia and have agreed that any dispute arising between them is to be settled by arbitration. If it is not a domestic arbitration but an international arbitration, then the Commonwealth's International Arbitration Act 1974 applies. The bill defines an arbitration agreement, which must be in writing, as an agreement by the parties to submit to arbitration all or certain disputes that have or may arise between them in respect of a defined legal relationship, whether contractual or not.

A court before which an action is brought in relation to a matter the subject of an arbitration agreement must refer it to arbitration if a party so requests. The bill defines how an arbitral tribunal may be composed, giving the parties flexibility to determine the number of arbitrators, the procedure for their appointment and the procedure for challenging the appointment of an arbitrator. An arbitral tribunal is given competency to determine whether it has jurisdiction to arbitrate a commercial dispute, although a party to the proceedings can seek a ruling on the matter from the Supreme Court or other agreed court. Power to grant interim measures, unless otherwise agreed by the parties, is conferred by the bill on an arbitral tribunal, but that is subject to a party requesting such interim measures, satisfying the tribunal that harm is likely to result and is not adequately reparable if interim measures are not granted.

An arbitral tribunal is given power to divide, record and strictly enforce the time allocation for a hearing, which is referred to as a "stop clock arbitration". However, parties must be given a fair hearing and a reasonable opportunity to present their case. The bill gives the parties great flexibility as to the form and manner in which arbitrations are conducted. They are free to agree on the procedure to be followed by the tribunal, but in the absence of such agreement the tribunal will arbitrate in a manner it considers appropriate. Parties are free to agree on the place of an arbitration, the date of commencement of proceedings and the language to be used in

the proceedings. Unless otherwise agreed by the parties, the bill sets out the requirements with respect to statements of claim and defence. Unless otherwise agreed by the parties, the tribunal will determine whether to hold an oral hearing or to make a decision based on the papers and materials submitted.

Parties can choose to appear in person or be represented by a person of their choice. Arbitral tribunals are empowered, unless otherwise agreed by the parties, to appoint experts on specific issues determined by the tribunal and to appear at a hearing for the purpose of examination. The Supreme Court or another court agreed upon can be requested to assist in taking evidence or may determine a question of law that arises in the course of arbitration. A tribunal is empowered to make an award dismissing a claim, with costs, where it is satisfied that there have been inordinate and inexcusable delays on behalf of the claimant in pursuing the claim. An arbitrator can act as a mediator in the proceedings if the parties agree, and the bill outlines the circumstances in which mediation can be terminated.

The bill also prohibits an arbitrator who has acted in mediation proceedings that have been terminated from conducting a subsequent arbitration unless the written consent of all the parties to the arbitration has been obtained. Provision is made for the protection of confidential information. Unless otherwise agreed to by the parties, an arbitral tribunal can determine costs, and the circumstances in which an application to the court may be made for the setting aside of an award or an appeal against an award are outlined in the bill. Jurisdiction is conferred on the court to determine a question of law that arises in the arbitration, unless the parties otherwise agree. The Commercial Arbitration Bill 2010 provides a more flexible means of resolving commercial disputes than is presently available. It establishes a process that is more expeditious, less formal and less expensive than litigation. Its framework for dealing with commercial disputes through arbitration will serve to harmonise the process nationally and in accordance with international practice. Accordingly, the Opposition does not oppose the bill.

**The Hon. SHAOQUETT MOSELMANE** [5.27 p.m.]: I support the Commercial Arbitration Bill 2010, and I am delighted to have some input into this debate. This bill aims to ensure that arbitration can provide parties seeking to settle commercial disputes with a quick, efficient and cost-effective alternative to litigation. The current Commercial Arbitration Act 1984 is part of uniform legislation operating across all States and Territories. The uniform legislation is now out of date, and Ministers agreed at the May 2010 meeting of the Standing Committee of Attorneys-General to update the uniform legislation and implement a model Commercial Arbitration Bill 2010. Ministers also agreed to base the model bill on the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration or, for brevity, the UNCITRAL Model Law.

The United Nations Commission on International Trade Law model law reflects the accepted world standard for arbitrating commercial disputes. Also, for more than 24 years it has provided an effective framework for the conduct of international arbitrations in many jurisdictions, including Australia. The Commonwealth adopted the United Nations Commission on International Trade Law model law in its International Arbitration Act 1974, with some additional provisions. The model law has legitimacy and familiarity worldwide, and has proven its effectiveness and relevance in the regulation of domestic commercial arbitration in other jurisdictions, including New Zealand. Basing the uniform commercial arbitration Acts of the States and Territories on the model law will provide genuinely harmonised systems for the regulation and conduct of international and domestic commercial arbitration.

Practitioners and the courts will be able to draw on case law and practice in the Commonwealth and overseas to inform the interpretation and application of its provisions. Arbitration is commonly used as an option for resolving business and commercial disputes because it is quick, less expensive and less formal than litigation, whilst still providing a fair and final resolution to a dispute.

Indeed, there is a booming market in commercial dispute resolution, and arbitration is emerging as the preferred choice for resolving international commercial disputes, particularly by Asian businesses. Sydney will capitalise on this with the opening of the first dedicated international dispute resolution centre in the central business district later this year. The new centre will feature world-class communication, audiovisual and video-conference facilities, tribunal facilities, conference rooms and access to translation and transcription services. The centre, jointly funded by the Commonwealth and New South Wales governments, the Australian Centre for International Commercial Arbitration and the Australian Commercial Disputes Centre, will strengthen capacity for corporations to resolve disputes without the need for court action. The Director of the Australian Centre for International Commercial Arbitration, Professor Doug Jones, estimates the direct and indirect economic benefits of the centre will "run into tens of millions of dollars each year".

The ability of Australian courts to deal with international arbitration is founded upon their experience with domestic arbitration. It is therefore an advantage to have consistent laws for domestic and international arbitration. To ensure that Australian business and economic interests are supported it is important that domestic arbitration laws in Australia are reformed and modernised. This reform of domestic arbitration legislation also coincides with the Commonwealth Government's amending of the International Arbitration Act 1974 to ensure Australia remains at the forefront of international arbitration practice. New South Wales took the lead in developing this model bill and is the first jurisdiction to introduce legislation based on the model bill. This will create a best practice legal framework for domestic arbitration in New South Wales, bringing it into line with the Commonwealth and with international standards. I congratulate the Attorney General on bringing such an important bill forward, and I commend the bill to the House.

**Reverend the Hon. FRED NILE** [5.32 p.m.]: I support the Commercial Arbitration Bill 2010, the paramount objective of which is to facilitate the fair and final resolution of commercial disputes by impartial arbitral tribunals without unnecessary delay or expense. It is based on the model law that is being used in Australia and also overseas, and provides for greater efficiency in New South Wales. The only criticism I have received is from Mr Derek Minus who briefed crossbench members. In a letter to the Attorney General he wrote:

The form of clause 27D ... contained in this Bill has not previously been provided to the stakeholders who were involved in consultation about the draft Bill. It is my personal view that in its present form, clause 27D presents practical difficulties to arbitrators, which will prevent arbitration from being the "cost-effective and efficient alternative to litigation in Australia" as you have advised the Parliament.

Mr Minus also sent the Attorney a copy of a letter he forwarded to Laurie Glanfield, the Director General of the Department of Justice and Attorney General, in which he said:

However, the form of the clause 27D provided in the CAB is completely changed from the clause provided in the Commercial Arbitration Bill 2009, for our review.

He also indicated that he believes it will create some problems. He also states:

I have had particular experience in conducting some two to three thousand conciliation/arbitrations over the past eight years as a Member of the NSW Workers Compensation Commission, where this process is exclusively utilised as well as working as an arbitrator in NSW courts.

He then listed his concerns. I have a duty to share that information that I received from a person about their objections. The Christian Democratic Party supports the bill.

**The Hon. KAYEE GRIFFIN** [5.35 p.m.]: The Commercial Arbitration Bill 2010 aims to ensure that arbitration can provide an efficient and cost-effective alternative to litigation for parties seeking to settle their commercial disputes. The bill's paramount objective is to facilitate the fair and final resolution of commercial disputes by impartial arbitral tribunals without unnecessary delay or expense. It aims to achieve this by enabling parties to agree about how their commercial disputes are resolved, subject to safeguards necessary in the public interest, and providing arbitration procedures that enable disputes to be resolved in a cost-effective manner, informally and quickly. To preserve the attributes that make arbitration a viable and attractive alternative dispute resolution process, the bill also clearly defines and limits the role of the courts in arbitration while maintaining the important protective function they exercise.

Targeted stakeholder consultation was undertaken in the development of this bill. One of the issues that stakeholders were invited to comment upon was the question of to what extent parties to an arbitration and an arbitrator should be able to access the courts, given the aims of commercial arbitration. Submissions emphasised that to give full effect to the paramount object of the bill judicial involvement in arbitration should be kept to a minimum. The provisions relating to recourse against arbitral awards will enable the courts to set aside an award in the circumstances set out in the bill including where a party was under some incapacity or was unable to present their case, where the award deals with matters not within the scope of the submission to arbitration, where the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, or if the award was in conflict with the public policy of New South Wales.

These provisions were taken from the United Nations Model Law on International Commercial Arbitration, on which the bill is based, and are also consistent with the Commonwealth's International Arbitration Act 1974. Submissions also recognised that party autonomy and choice in arbitration are important principles of arbitration. For that reason it was suggested that a mechanism for recourse to the courts on a

question of law should be available should the parties choose to adopt it. The bill therefore provides an optional provision that enables parties to agree to allow appeals to the court on a question of law arising out of an award from any time after a dispute has arisen to the end of the three-month period allowed for appeals. This optional provision enables the parties to agree to allow recourse to the courts. These provisions promote the finality of arbitral awards, yet also afford parties the choice, after a dispute has arisen and they are aware of the extent and nature of the matter, to agree to enter arbitration subject to judicial review if they so choose. The bill thereby aims to achieve the correct balance between the principles of party autonomy, and justice and the aims of arbitration with its emphasis on speed, efficiency and cost effectiveness. I commend the bill to the House.

**Ms SYLVIA HALE** [5.38 p.m.]: The Greens support the aims of the Commercial Arbitration Bill 2010 to update the original 1984 Act in the light of the many advances in alternative dispute resolution practices over the past decade, particularly the increased use of mediation in almost all New South Wales courts ranging from the Consumer, Trader and Tenancy Tribunal to the Supreme Court. The bill also acknowledges the increasing interaction between mediation preliminary to the arbitration of disputes being the so-called MedArb model of dispute resolution outside of the courtroom. The increasingly fluid nature of the mediation and arbitration processes as now practised in the Australian commercial world are catered for by this bill.

In the recent National Alternative Dispute Resolution Advisory Committee Report on Alternative Dispute Resolution in the Civil Justice System, commissioned by the Federal Government, it was noted that the use of alternative dispute resolution remains significantly underutilised in Australian civil disputes. The Greens also note that the Federal Government has recently asked the National Alternative Dispute Resolution Advisory Committee to investigate issues of confidentiality, non-admissibility and conduct obligations for alternative dispute resolution practitioners in different alternative dispute resolution processes. The Greens support the development of such national standards, which will undoubtedly assist arbitrators and parties to any future arbitrations conducted under the 2010 amending bill.

The genesis of the bill has been a long one, but the Greens feel overall that the bill will set a proper national standard for the various States to follow and be in conformity with the Federal Act in the same area. Given that the New South Wales Bar Association and the Law Society's Alternative Dispute Resolution Committee support the bill, the Greens consider it a worthwhile development for alternative dispute resolution processes in New South Wales.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.41 p.m.], in reply: I thank honourable members for their contribution to the debate. This is an important piece of legislation that seeks to update the law in relation to commercial arbitrations and, as honourable members have rightly indicated, it has been a significant time in its genesis. It repeals the Commercial Arbitration Act 1984 and provides a new procedural framework for the conduct of domestic arbitrations. The bill facilitates fair and final resolution of commercial disputes by impartial tribunals without unnecessary delay or expense, and it will ensure that arbitration provides a cost-effective and efficient alternative to litigation in Australia.

The current Act, as part of the uniform legislation operating across all States and Territories, needs to be modernised. While court practices and procedures have improved and developments in arbitration law have been made in many jurisdictions around the world, Australia's domestic commercial arbitration laws have changed little since they were first introduced. There is a compelling need for reform and many prominent stakeholders have advocated the update of commercial arbitration legislation, including the Chief Justice of New South Wales.

At the May 2004 meeting of the Standing Committee of the Attorneys General Ministers it was agreed to update the uniform legislation and to implement a model Commercial Arbitration Bill 2010 based on the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration. That model law reflects the accepted world standard for arbitrating commercial disputes. New South Wales took the lead in developing this model bill. We are going to be the first jurisdiction to introduce legislation based on the model bill and provide businesses with up-to-date domestic arbitration laws.

The United Nations Commission on International Trade Law model law was adopted as the basis of the model Commercial Arbitration Bill 2010 for several reasons, including its legitimacy and familiarity worldwide and its proven efficacy in regulating domestic commercial arbitration in other jurisdictions, including New Zealand. Basing uniform commercial arbitration Acts on the model law provides genuinely harmonised systems

for the regulation and conduct of international and domestic commercial arbitration. Practitioners and courts will therefore be able to draw on the case law and practice in the Commonwealth and overseas to inform the interpretation and application of its provisions.

Sydney is set to share in the booming market in commercial disputes resolution with the opening of the first dedicated international dispute resolution centre in the central business district later this year and, with the Commonwealth's changes to the International Arbitration Act 1974 to ensure that Australia remains at the forefront of international arbitration practice, the reform of domestic arbitration legislation is timely. The reform of arbitration laws at both State and Federal level will create an international best practice framework for arbitration in Australia. The Commercial Arbitration Bill 2010 will ensure that New South Wales domestic arbitration laws reflect the accepted international practice for resolving commercial disputes and will provide businesses with a dispute resolution method that is quick, fair, informal and cost-effective. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

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

## **NATIONAL PARKS AND WILDLIFE AMENDMENT (VISITORS AND TOURISTS) BILL 2010**

### **Second Reading**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.45 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

This bill seeks to get the balance right between conservation and connecting people with nature by providing memorable and meaningful experiences. It provides clarity about the purpose for which leases and licences can be granted and strengthens environmental standards for those leases and licences. The bill also provides more opportunities for the public to have a say in what happens in their local parks.

New South Wales has an enviable park system, with more than 450 new parks created since the New South Wales Labor Government took office in 1995. Covering more than 6.7 million hectares, our parks stretch from the spectacular coastal wilderness in the south to the lush rainforests of the north-east, across Mount Kosciuszko to the Riverina and the outback beyond. They provide critical habitat to a wide range of native animals and plants, protect significant cultural heritage of Aboriginal communities and showcase the unique and diverse history of this great State.

We have a responsibility to ensure that the people of New South Wales and our visitors can access and experience our national parks first hand to enjoy and appreciate all they have to offer. Indeed, the New South Wales Government State Plan recognises the importance to people of our natural areas through setting a specific target for increasing visitation to parks and reserves in this State by 20 per cent by 2016. The Government's rationale is very simple: Remaining relevant and raising community awareness of New South Wales' unique natural and cultural heritage is the way in which we will ultimately strengthen long-term support for conservation.

The Government's 2008 task force on tourism and national parks reaffirmed the importance of encouraging visitation through its consensus report. It contained 20 recommendations for an enhanced level of sustainable visitation and nature-based tourism in the State's national parks, marine parks and reserves. Significantly, it was the first time in New South Wales that conservation and tourism representatives had come together to agree on the type of facilities and activities for visitors and tourists that are appropriate for a national park setting. The bill contributes to the implementation of the task force recommendations.

For the benefit of those members of the House who are not familiar with the details of the park system I state that it comprises seven different reserve categories that reflect the varying purposes for which land may be reserved under the Act, which include nature reserves, karst conservation reserves, national parks, Aboriginal

areas, historic sites, regional parks and State conservation areas. In addition, wilderness areas may be declared under the Wilderness Act over any land within the park system. The amendments we introduce today have little impact on the most pristine parts of the park estate contained in wilderness areas and nature reserves, which together make up around 43 per cent of the park system.

The task force reported that, in its current form, the Act is complex and lacks clarity for operators interested in working with the Government to deliver sustainable opportunities for visitors and tourists. For this reason today we outline our intent to amend the National Parks and Wildlife Act 1974 to streamline the existing leasing and licensing provisions of the Act and clarify the purposes for which leases or licences may be granted on park estate. It sets new standards for environmental sustainability for these leases and licences and introduces greater transparency and accountability measures.

The first measure introduced by the bill is to make it clear that local visitors and tourists are welcome to enjoy and appreciate our parks. The amendments propose the inclusion of sustainable tourist use within the management principles of relevant reserves as well as ensuring that there is a clear understanding of what is meant by "sustainable" by inserting a definition of it into the Act that refers to the principles of ecologically sustainable development. The bill recognises that sustainable visitor and tourist use is an appropriate use within national parks, State conservation areas, regional parks, historic sites, karst conservation reserves and Aboriginal areas. The bill emphasises that tourist facilities are not appropriate in nature reserves and wilderness areas due to the outstanding conservation values of these areas.

The existing Act already contains broad powers to grant leases and licences, including for hotels and other accommodation facilities and amenities for tourists and visitors. However, the current powers to grant leases and licences are set out in separate provisions based on whether the proposal is for a new facility or the adaptive reuse of existing buildings. The amendments do not propose expansion of the range of purposes already permitted under the existing Act.

The changes we endorse today create a single, simpler provision that sets out, in detail, the purposes for which a lease or licence may be granted. It makes it clear those purposes that are permissible and those that are not. This means that operators and accommodation providers who are interested in partnering with the National Parks and Wildlife Service know what to expect and what is expected of them. It also makes it simpler and easier for communities to know what facilities and activities may occur in their parks. We want to avoid the unnecessary delays and roadblocks to outstanding conservation outcomes such as occurred with the Quarantine Station at North Head in Manly. In that case more than 10 years was wasted on disputes over uses as important as education centres and amenities for visitors and tourists. The end result is that we now have a world-class accommodation and conservation experience right on Sydney's doorstep. Importantly, our private sector partner has worked with us and invested over \$15 million to restore the fabric of the heritage buildings and the surrounding precinct.

Importantly, for conservation, as noted in clause 151 (3), the bill does not in any way override or remove the requirements for the management of reserved land to be in accordance with the relevant management principles. In addition, in determining whether to grant a lease or licence the Minister must give effect to the objects of the Act. It is also a condition of every lease and licence that lessees and licensees comply with the relevant plan of management. Conservation of our natural areas and cultural heritage is the unequivocal basis upon which national parks and reserves are—and will continue to be—managed. I seek leave to table independent legal advice from Mr Bret Walker, SC, which critiques a recent draft of the bill before the House and responds to recent claims made by Mr Robertson, SC, in his advice to the conservation groups.

**Leave granted.**

**Document tabled.**

Mr Walker states:

the amendments proposed by the bill would clarify but not broaden in any significant way the range of purposes for which leases and licences may be granted in national parks.

Mr Walker further concludes that the amendments, in his opinion:

... would strengthen the environmental controls and checks and balances in the Act on the environmental impact of developments in national parks;

... would better secure the protection of the natural and cultural values of national parks than the admittedly already considerable protection given by the Act, and

... the addition of the word "tourist", certainly does not have the vice (from a conservation point of view) of permitting the influx and servicing of a new horde of people hitherto not welcome in New South Wales national parks.

**In Mr Walker's opinion:**

... both overall and in detail, the assertions of some backsliding from current conservation values, threatened by the bill, are boxing at shadows. There is no substance in any of the strained and melodramatic hypotheticals found in Mr Robertson's Memorandum of Advice. "Disneyland"? "supermarkets"?—really? I do not see any legal merit in Mr Robertson's suggestion ... that this would be a closer possibility in New South Wales national parks were the bill enacted, than it is under the Act in its present form.

Mr Walker explains that there is no substance whatsoever in claims that "the floodgates have opened" with regard to rampant "privatisation". In fact, Mr Walker states that the bill proposes a "much better and more thoroughgoing subjection of all powers to lease or licence within national parks to appropriate purposes on conservation-informed terms". Mr Walker's conservation-informed terms are achieved by the new provisions within the bill that strengthen the environmental standards for leases and licences.

The bill does this, first, by establishing that the Minister must not grant a lease or a licence unless satisfied that it is compatible with the natural and cultural values of the land and its surroundings; that it provides for the sustainable and efficient use of natural resources, energy and water; and that any new or modified structures are of an appropriate built form and scale, including bulk, height, footprint, setbacks and density. The bill requires the director general to adopt assessment criteria that detail how these matters are to be considered. In addition, the director general must prepare a report for the Minister that assesses leases or licences against these criteria. This report must be considered by the Minister before granting a lease or licence.

Discussions with conservation groups over recent weeks have helped to refine the bill further, particularly with regard to these new assessment criteria. The bill now ensures that they may be varied only if the director general has consulted with the National Parks and Wildlife Advisory Council, and if the council agrees that any variation, on balance, improves or maintains the environmental outcomes. I note that this council is an independent advisory body, constituted under the Act, of representatives nominated by organisations including the National Parks Association, the Nature Conservation Council of New South Wales and the Local Government and Shires Associations.

This additional check and balance provides certainty that the criteria will remain a robust method of assessing lease proposals intended for national parks in New South Wales. The new assessment criteria will not apply to a lease or licence of land within a ski resort area, as these areas are subject to separate, specific planning controls under a State environmental planning policy; or to some renewals, including those where the renewal results from an option in an existing lease. Our clear intention is to ensure that reputable operators are not deterred from partnering with the parks service to continue delivering visitor facilities and services. The Government recognises that it is important not to move the goalposts if it has already entered into an arrangement with a private partner and that private partner has been doing the right thing by the environment and the public.

Some concern has been raised with regard to allowing leases or licences for sporting and recreational activities. I clarify that only low-impact sporting activities such as the very popular annual Oxfam Trailwalker, the Wilderness Society's Wild Endurance and the Anaconda Adventure Race are appropriate for national parks. These events, which involve healthy outdoor recreation such as swimming and kayaking, are the type of activities communities would want us to support. The bill will allow opportunities for these activities to continue while clearly ruling out the development of inappropriate sporting facilities such as stadiums.

A real benefit of the bill is that it improves transparency by requiring public advertisement of all leases that involve new purposes, new buildings, or significant modifications to existing buildings. Currently only leases in ski resort areas need to be so advertised. The bill also provides that all leases for new facilities or significant modifications to existing buildings must be referred to the advisory council. In addition, the bill proposes that the Minister may, under clause 151G (1) (b), also refer a lease or licence proposal to the advisory council if the Minister thinks it is appropriate to do so. This provision allows sufficient flexibility to refer major lease renewals, including all head leases as well as leases that involve substantial infrastructure and that are for a term of more than 10 years, to the advisory council for advice. In response to recent concerns raised by the conservation groups I confirm the Government's commitment to refer all such leases to the advisory council under this provision.

These are important new measures that improve accountability of leasing and licensing of land within our parks. These amendments will both improve and streamline consultation processes and improve the consistency of decision-making with regard to facilities and amenities on park. This will provide legislative certainty for private investors and park managers alike who may wish to consider new and innovative accommodation, facilities, events or functions for appropriate parts of the reserve system.

Further proposed amendments will improve equity of access for, and safety of, individuals by allowing licensed tour operators to guide small groups of people into remote wilderness areas. The changes relate only to the types of activities that are currently permissible on a self-reliant basis, such as walking or canoeing. These activities, guided by licensed tour operators, will have no greater impact than the current scenario where small groups or clubs pursue the same activities but on a non-commercial basis. In addition to improved safety, the benefits of this change include building awareness of the immense value of our wilderness areas and creating new opportunities for nature-based tourism experiences. There are people who lack the skills, confidence or equipment to undertake recreation in parks independently, and particularly in more remote wilderness areas. This bill removes some of these barriers and makes it possible for a broader range of the community to experience and immerse themselves in nature.

The bill also proposes the removal of two anomalies relating to leasing and licensing in the existing Act. It corrects the provision that prevents leases and licences being granted in State conservation areas and regional parks that are in Aboriginal lands reserved under part 4A of the Act. The removal of the current restrictions on leasing and licensing in Aboriginal areas and lands conforms with the wishes of traditional owners and will assist in fostering employment opportunities for Aboriginal communities, and it allows licences for appropriate commercial activities to be granted in regional parks, State conservation areas, karst conservation reserves, Aboriginal areas and nature reserves. For example, this amendment means that commercial licensing of activities that are of a scientific or educational nature may occur in nature reserves, consistent with the relevant management principles. This will allow licensed activities such as a bird-watching tour to occur within a nature reserve.

Finally, the bill includes proposals to recategorise four specific reserves to enable the most appropriate use of these areas. All four proposals have been reviewed and endorsed by the relevant regional advisory committee, ensuring that the community's views have been taken into account. These recategorisation proposals improve access to important places such as historic Roto House and other visitor facilities such as the Sea Acres Rainforest Centre. We want to continue to provide park visitors with the sort of high-quality experiences that they have come to love—from beachside cottages and lighthouse accommodation to Snowy Mountain cabins and outback homesteads. Indeed, families and community groups have been enjoying on-park amenities for decades. In fact, the National Parks Association recently enjoyed a thirtieth anniversary celebration at Woody Head cabins in Bundjalung National Park on the New South Wales North Coast. I am told that the cabins are really nice.

The ultimate intention is to work with private operators who share the parks service's commitment to the pre-eminence of conservation and who themselves are committed to providing visitors to parks with a range of low-impact and best practice facilities and sustainable accommodation options. One example of where the Government would like to achieve this mutually beneficial partnership arrangement is in Ben Boyd National Park on the far South Coast of New South Wales. The existing Light to Light multi-day walk has the potential to become one of the world's great walks and it is appropriate for the parks service to consider low-impact safari-style tents or eco-cabins for people to stay overnight as they embark on their coastal journey. The bill provides New South Wales with an opportunity to showcase its magnificent natural and cultural wonders.

Places such as New Zealand, Tasmania and even our friends in Victoria are already providing nature-based accommodation and experiences that are capturing the hearts and minds of young and old alike. This bill will position New South Wales to provide world-class experiences for visitors and tourists to match these experiences in other places. The Government is committed to supporting regional communities by providing a range of experiences in parks for visitors to enjoy that may, in turn, encourage people to stay longer in regional New South Wales. To this end it is certainly not our intention for national parks to compete with local accommodation providers or operators. To the contrary, I can assure the House that the Government is interested in collaborating with local communities to complement existing options for visitors seeking a unique nature or cultural experience in Sydney and the regions.

We are confident that these changes will improve the National Parks and Wildlife Act in a way that enables us to cater for a broad range of visitors while upholding the absolute primacy of nature conservation.



The bill requires that all leases for new facilities or significant modifications to existing buildings must be referred to the National Parks Advisory Council—an independent advisory body of representatives nominated by organisations including the National Parks Association, the Nature Conservation Council of New South Wales and the Local Government and Shires Associations. The bill gives the Minister the flexibility also to refer any lease or licence proposal to the National Parks Advisory Council if the Minister thinks it is appropriate to do so.

The Government confirms its commitment to refer all major lease renewals, including all head leases and leases that involve substantial infrastructure and are for a term of more than 10 years, to the advisory council for advice. Today the Minister introduced an amendment enshrining this commitment in the Act. The bill will require the Minister to refer all head leases under section 151H of the Act and all leases for a term of more than 10 years to the advisory council. This will apply whether they are new leases or lease renewals and whether or not they involve substantial infrastructure. I commend the bill to the House.

**The Hon. CATHERINE CUSACK** [6.04 p.m.]: The saga of the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010 has caused a great deal of anxiety to tens of thousands of citizens who love our national parks and who are feeling anxious that legislative changes to these arrangements might result in inappropriate development occurring in our national parks. I am sure that I am not the only member of Parliament who is receiving large amount of correspondence from these citizens. I say to the good citizens who are sending me this information: Thank you for loving our national park system. Thank you for the contribution that you have made. Thank you for your activism, which is the main reason why we have in place a national parks and wider reserve system.

The Liberal-Nationals Coalition has great respect for the opinions of these citizens and for the system that we are fortunate to have in place. We must be diligent and take every care in administering these parks. As the Parliamentary Secretary said earlier, the National Parks and Wildlife Service Act, the overarching legislation for our parks, is a complex and contradictory Act of Parliament. Only last week we dealt with this problem in legislation concerning Aboriginal heritage. I think all members would agree that it is archaic and inappropriate for Aboriginal heritage to be managed in an Act that is dedicated to flora and fauna. It is certainly offensive to the Aboriginal community.

This Act is antiquated and it is in need of reform. I cannot think of any matter that conservationists have to work with that is more contentious than developments inside national parks. I believe that members of various groups in the conservation area have met on many occasions with Minister Frank Sartor and his staff. Hanging around the Chamber like an old uncle is the National Parks and Wildlife Amendment (Leasing and Licensing) Bill.

**Reverend the Hon. Fred Nile:** A 2007 bill.

**The Hon. CATHERINE CUSACK:** It is a 2007 bill. That earlier legislative attempt, which sits in the box and greets us on the *Notice Paper* every day, obviously was adjourned and has been left in limbo ever since. At least Minister Sartor is trying to progress a matter that we all acknowledge is difficult. The Liberal-Nationals Coalition wants as many people as possible to enjoy and celebrate our national parks and reserve system. We do not object to any attempt to try to modernise this Act for the benefit of the community. However, it is important to remember that the prime purpose of our national parks and reserve system is conservation of habitat for wildlife and respect for conservation values. In everything we do legislatively that must come first. As the Parliamentary Secretary said, this bill seeks to clarify several issues.

The word "tourist", which is used in the bill, is not in the current Act. I asked the Minister what was the difference between a tourist and a visitor in a national park. The Minister said it was a vexing question but that it might be safer for legal purposes to have a reference to tourists and visitors in the bill rather than just to visitors, as it is at the moment. Visitors to a national park are referred to in the bill as tourists, but I am not completely clear as to why it is safe to include that descriptor. The bill will enable national parks to licence some activities in wilderness areas—for example, the activities of guides. I understand that it will be possible to have some formed walking trails in wilderness areas, which I welcome. There are many in the conservation movement who would like these areas completely locked up once they have received such a high-level declaration.

Because we now have so many wilderness areas across the State there will be increased pressure for better access to wilderness areas—not just access for those fairly elite groups who know where they are and where they are going. This bill will open up these beautiful areas and make them more available to all visitors,

which is more equitable. Visitors to New South Wales, including people from overseas, might wish to go on a camping trip in a national park but they might not want to go out and purchase a car to carry a tent, a backpack, a sleeping bag and all the other gear that might be needed on such a trip.

The Minister and the department are fairly adamant that in order to give those people an option to go on walks, as was alluded to by the Parliamentary Secretary regarding the proposed Ben Boyd National Park walk—I believe it is referred to as the Light to Light walk—it would be necessary for those facilities to be provided in existing camping grounds. The benefits of low-impact use are evident. Certainly, the Coalition parties support that type of access, which clearly is not in conflict with conservation values.

Interestingly, the bill also makes changes to the status of some reserves to better reflect their use. Corramy State Conservation Area, Limeburners Nature Reserve, Sea Acres Nature Reserve and Macquarie Nature Reserve all have some adjusted areas. An area of Limeburners Nature Reserve has been declared national park. Although that is a step down from a nature reserve declaration, it reflects the fact that the area is popular for picnicking, which is not an activity that we would have in nature reserves. I welcome this step taken by the Minister. I suppose it could be regarded as housekeeping on one level, but I suggest it is a nonsense for land to be declared a nature reserve when it does not function in that way. Bringing matters into line maintains the integrity of the system and is not opposed by any stakeholder.

The Government's 2008 Taskforce on Tourism and National Parks recommended a stronger focus on developing tourism opportunities in places most likely to benefit from such opportunities. From a regional economic perspective, such areas would be close to Sydney and within three hours drive of Williamstown, the Gold Coast, Ballina, Coffs Harbour and Canberra. It was thought that as those areas have fantastic national parks and are easily accessible by visitors it would be worth developing new opportunities in them and raising their profile as preferred destinations.

The emphasis of the bill is very much on sustainable tourism. One positive feature of the bill is that it puts "sustainability" into the Act and defines the term. The task force recommended that the department undertake a review of accommodation and leasing policies in the parks to optimise the use of existing huts, standing camps and cabins, and to allow for new options, which was my starting position regarding tourism in national parks. I have visited and stayed in some of these wonderful national park facilities. Currently, there are approximately 900 buildings inside national parks providing over 1,800 units of accommodation. I am not talking about bare earth to pitch a tent; I am talking about actual physical buildings. My family have stayed in a number of places, including in the New England National Park near the point lookout, and strongly recommend them. And we have our eyes on a few other places near the Queensland border, where I come from.

How can we better utilise the existing facilities? Why are park rangers, who are highly qualified in conservation, running around taking bookings or collecting money and having to clean up after people? Our rangers should be doing what they are trained for, what they are paid for and what they love to do, and that is engage in ranger activities, not look after tourists. An initiative I would propose to the Government—and to the Coalition if it were to win government—is to lease out existing facilities to relieve the maintenance cost from the national parks budget and have them managed more professionally. In some areas that is already happening—for example, the Light House at Byron Bay is managed by a local real estate agent. Maintaining such facilities should not be a drag on the conservation resources of the department. There is a large amount of accommodation, and if I were the Minister responsible, I would examine those options first. Nevertheless, other opportunities are being identified in partnership with the industry. Of course, those opportunities need to be addressed, and that is what this bill does.

As I have said, the bill will define "sustainable". Tourism or visitor enjoyment of the land—and this links back to the Protection of the Environment Administration Act 1991—requires compatibility of activities and structures with Aboriginal natural and cultural values. The bill clarifies and rationalises the provisions dealing with leases and licensing. Proposed section 150A outlines the purposes of a lease or licence. I foreshadow an Opposition amendment on that aspect, which I shall deal with later. It proposes that accommodation and support facilities be established in national parks. It provides the authority for adaptive use and reuse of modified natural areas. It requires that leases and licences be consistent with the management principles for nature reserves, and limits the period of time, being a maximum three months per annum, of lease or licence for a conference, function or special event inside a national park.

An issue that I have not been able to clarify during consideration of this matter is the consent process for these sorts of developments. I understand that the parks service would work with the proponent to identify

suitable land for which adaptive use and reuse of modified natural areas is the focus, as we would like. The department then almost becomes a joint partner in the development because it is leasing the land and financially benefits from any lease. One would think that a completely dispassionate person would make the final decision about this. The initial response is that there is no consent process for development in national parks because it is not part of a local government's local environmental plan. Land in a local government area identified as national park area is zoned for uses as approved in the National Parks and Wildlife Service Act, and they are the uses we are debating.

Other advice suggests that because any construction in national parks would impact on the environment, it will come under part 5A of the Environmental Planning and Assessment Act and, therefore, part 5A is the consent process. But it remains unclear who is the authority. The issue of developments under part 3A of the Environmental Planning and Assessment Act has been raised with me. My understanding is that in order for a project to fit the criterion for a part 3A development it would need to be valued at \$100 million or more. I am sure that all of us would hope that such a project would not be proposed for a national park. I certainly would not expect that to happen or to be accepted. Matters to be considered before granting a lease or licence include requiring that the project be compatible with the natural and cultural values of land and adjoining land, apply sustainable use of water, energy and natural resources, and limit any new or modified structure to an appropriate size relative to the intended use.

The bill requires the director general of the department to develop sustainability assessment criteria to assess these requirements. Currently, the requirements are being finalised, but there has been much consultation in relation to them. The bill establishes special conditions for leases and licences in karst conservation areas, measured against environmental performance standards in the relevant plan of management. An important point that needs to be stated clearly is that these buildings can only be approved in a national park if it is stated in the park's plan of management, which is a document that is exhaustively researched and consulted on with the community. That gives us some measure of reassurance. If it is not in the park's plan of management, there is no point in rocking up to the local department of the National Parks and Wildlife Service office saying, "I've found this fabulous site for my project." If it is not in the plan of management it would not even be able to be considered. That is an important safeguard.

The bill establishes a public consultation process prior to the granting of any leases. Of course, this is an improvement on the Act, which currently does not require such consultation. The bill provides for the saving of plans of management for State conservation areas that are being reclassified as national parks. The bill shortens the period of public exhibition for changes to plans of management from 90 days to 45 days. The Opposition welcomes its being embedded in the plan of management, but I must say that many national parks do not appear to have plans of management and nature reserves. I am basically relying on what is published by the department on its website, but it appears to me that up to a third of our reserves do not have plans of management, and that is a matter of concern. I understand that it is a fairly tortuous process, so making the process more manageable so that we can have more plans of management is a positive step. The bill requires the Minister to consult before granting a licence or a lease, particularly when there may be Aboriginal or caste related matters.

The bill provides for certainty for private interests to invest in businesses in the reserved land. The bill provides for new leases to be advertised and establishes the sustainability criteria for compatibility with reserved lands. It is not just that it must be sustainable; it has to be sustainable in its context. Particularly for inland regional areas of New South Wales, the bill potentially provides an opportunity for the Parliament to deliver on some of the environmental green-type jobs that for so many years have been promised to communities when huge tracts of land have been, in their eyes, locked up as national parks. I am sorry to say that former Premier Bob Carr was an absolute master at promising that hundreds of jobs would emanate from the establishment of national parks. Frankly, no jobs materialised.

Embarking on economic regional development to provide improved visitor access to national parks for the benefit of the community is innovative and creative. It is very positive for our entire community to have more opportunities to visit and celebrate our national parks. I expect that high-quality information will be available for visitors when they get there.

I met a local Landcare volunteer who had lived around the Yuraygir National Park from the time she was born. We went for a walk through that park, which has one of the most spectacular coastal walks in the world. She rather sadly told me that she could not even take a school group through that park, and that is a real shame. It means that many of the schoolchildren in the area around Iluka and Yamba whom Landcare volunteers

would like to take into a national park cannot go there. They can certainly go if they are accompanied by their teacher, but teachers want to go with Landcare volunteers who will explain things to the children and show them the vegetation, and so on. Currently it is illegal for local volunteers to take children on nature walks in our national parks. I am sad to say that when this bill is passed, such a pastime will still be illegal.

**The Hon. Robert Brown:** Hear! Hear!

**The Hon. CATHERINE CUSACK:** It is not a commercial process. It is a very worthwhile activity. Frankly, it makes me feel that there are barriers between ordinary people and our national parks. That mentality is deeply felt, particularly in some of the neighbouring towns whose economies are very much affected by the existence of a national park. I wonder why we need licences at all for people to take groups into national parks. I would be very supportive of a system of accreditation so that people could go to the Internet, go to the National Parks website and find an accredited tour guide. Why are we blocking Landcare volunteers from taking school groups into national parks? I think that is quite sad.

I foreshadowed that the Opposition will move amendments in Committee. One amendment will seek to exempt the effects of the legislation in terms of tourism in relation to World Heritage listed areas. I realise that this will cover quite a large number of national parks, but it would certainly cover my part of the State, which is the north-east rainforests, and they certainly are World Heritage listed. It is inconceivable to think of a hotel or a large building being developed in a rainforest national park. For the benefit of the Government I point out that the amendment does not seek to prohibit World Heritage activities in those areas, but merely relates to the construction of new buildings.

Lifesaving, firefighting and similar purposes are not those at which the amendments are directed. I will say more about the amendments at the appropriate time. The Opposition believes that World Heritage listed areas have a special status. If members examine the national parks that will be affected, they will see the logic of the amendments, which seek to create a two-tiered level of protection by definition.

**The Hon. ROBERT BROWN** [6.24 p.m.]: I will speak briefly and succinctly on this bill. The Shooters Party supports the intent of the bill. However, it has been interesting to hear the Parliamentary Secretary's second reading speech and the contribution to the debate made by the Hon. Catherine Cusack because their comments bring into sharp focus what is not in the bill and some parts of the bill that may cause concern, not only for the National Parks Association and the Nature Conservation Council but for ordinary citizens of New South Wales.

I suggest to the Government in relation to access to national parks that the reason some people do not support the Government creating millions of hectares of national parks is that they perceive that they will be locked out of the national parks. The greater the number of people who visit national parks—and not for a minute do I believe the figure of 38 million visits a year—the more will be the support that is engendered among voters in favour of the concept of national parks. Right throughout the world, national park managers have tried to ensure that citizens and tourists, who I guess are probably different from visitors, get to have a real national parks experience.

The expansion of opportunities for commercial or professional guides to take people into national parks, including World Heritage areas, is a good idea. Not all citizens are capable of wandering around on their own in a wilderness. Every year in New South Wales up to 30 groups get lost in national parks because they have struck out on their own. There is nothing wrong with a wilderness-based adventure; it is fantastic, provided that it is done safely. However, the idea of permitting developments to be constructed in national parks is perhaps a slightly different kettle of fish.

Right throughout the world there are world-class protected areas that have managed to establish quite up-market facilities in national parks that do not appear to have damaged the national parks. I refer particularly to national parks in the United States, Canada and South Africa as examples that should be closely examined. However, I share some concerns expressed by Mr Ian Cohen that such a proposal may open the floodgates to all types of inappropriate developments. National parks that are managed properly and that allow citizens to obtain access to them, instead of people continually coming up against locked steel gates, are a wonderful idea. If that type of enjoyment can be provided, the Government will attract the support of the community, particularly voters, for huge expenditure that is directed towards protecting national parks and maintaining them in a condition that is as close to pristine as possible.

There is a good deal of irony to this legislation. All over the world one of the primary activities undertaken by citizens is hunting and fishing in national parks. Oh dear—not in New South Wales! I question the ability of the National Parks and Wildlife Service to ensure compliance by operators of commercial premises.

**Mr Ian Cohen:** That is the first time you have trusted the National Parks and Wildlife Service in your entire history.

**The Hon. ROBERT BROWN:** I am not there yet. How can I have confidence in the National Parks and Wildlife Service when it cannot even assure compliance in relation to simple issues, such as in relation to some of its pet organisations that run bushwalking exercises in the Blue Mountains? I have lots of evidence of open bragging on websites of conditions of permits being breached, such as too many people comprising a party, fires being lit in caves, abseiling in wet weather, four-year-old children being taken down into canyons by rope, and similar breaches.

I agree with the Hon. Catherine Cusack that we do not want our trained park rangers collecting fares and virtually becoming the administrative segment of a tourism operation. However, it is a fantastic idea to increasingly begin opening up areas of national park and making them available for a full range of Australian citizens, not just those who have a couple of thousand dollars in their back pockets. The idea of expanding the opportunity for commercial, professional and trained guides taking people into national parks is a fantastic one. The Shooters Party supports the bill.

*[The President left the chair at 6.30 p.m. The House resumed at 8.00 p.m.]*

**The Hon. DON HARWIN** [8.00 p.m.]: The National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010 has as its main purposes facilitating tourist development and activities in lands reserved under the National Parks and Wildlife Act; allowing the service to licence some activities in wilderness areas; and changing the status of some reserves to better reflect their current use. The Government's 2008 Taskforce on Tourism and National Parks made a number of recommendations, including a focus on developing tourism opportunities in certain areas close to Sydney, in particular, those within a three-hour drive of the Hunter, the Gold Coast, Ballina, Coffs Harbour, Canberra and other important tourist areas. It was designed to make sustainable tourism a clear objective in the National Parks Act.

The Taskforce on Tourism and National Parks undertook a review of accommodation and leasing policies in parks to improve the use of existing huts, standing camps and cabins, and it allowed for some new accommodation options. Finally, the task force also recommended some legislative changes to increase the range of low-key tourism experiences and attractions permitted in parks. We have been waiting on legislation such as this for some time, as members would be aware that the task force reported two years ago. We now have this bill before us. Rather than detain the House now I simply say that I fully support the position outlined earlier this evening by the shadow Minister, the Hon. Catherine Cusack, in her excellent contribution on behalf of the Opposition, and I commend her position to the House.

**Mr IAN COHEN** [8.03 p.m.]: On behalf of the Greens I sadly oppose the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010. I say "sadly" because I would have liked to support initiatives involving national parks—an issue that is close to my heart. In the 15 years that I have been a member in this place the Greens have taken an active role in dealing with issues such as this. I have worked in various capacities as an activist supporting a number of campaigns. The most substantial campaigns involved the rainforests of northern New South Wales, which are now World Heritage areas. These days those rainforests are world-class national parks.

I and many other activists risked our lives and went through a great deal of discomfort to highlight the significance of these areas to various environmental bureaucracies and members of the New South Wales Government, under the premiership of Neville Wran. At that time there was a great deal of activism. It is interesting to note that back in those days the Hon. Ian Macdonald was one of the firebrands who supported saving those rainforests. It is amazing how things change over the years. The Hon. Ian Macdonald used to tell me with great pride that he supported the then Attorney General, one of a group of progressives in the Wran Cabinet who supported the saving of the Terania rainforests. A few years later we had the Nightcap win, and that culminated in the establishment of the Nightcap National Park.

I have referred before in this House to a statement made at that time by Premier Wran. He said that if there were one thing his Government would be remembered for, it would be the saving of those rainforests. The

Labor Government can be proud of its successes in that respect. Over many years there has been a great deal of reliance on the goodwill of Labor governments for substantial environmental gains. I will not go through the interesting and colourful history of many generations of effort by people such as Milo Dunphy and the great efforts of early bushwalkers who worked so hard to protect wilderness areas and national parks in the Blue Mountains area. It is a credit to that generation of ardent environmentalists that we have the National Park Estate that we enjoy today.

There is something special about national parks and wilderness areas. The general population should be able to share these areas to fully appreciate them. No-one would deny developing various access levels to national parks, as the department has done for quite some time, from wheelchair access to the other level of enabling people to go off track to experience wilderness areas. Certainly, I have had that experience many times and been lost many a time.

**The Hon. Melinda Pavey:** But you were found.

**Mr IAN COHEN:** I acknowledge the interjection by the Hon. Melinda Pavey, but the interesting part in the wilderness campaign is that no-one was there to find you. One of the wonderful things about that campaign was the number of guides. There was the macho guide who used to tell the people, "I'm the guide who never gets lost." Those who felt like they needed security would go with him. Of course, I would stand up in the circle when the new chums arrived in the camp and say, "Well, I'm the guy who always gets lost" and a few rather confused people would come with me. One way to enjoy an absolute wilderness experience is to get into the middle of the wilderness where there are no tracks and not know your way back to camp. One day I was out with a group of experienced northern New South Wales greenies and activists who were instrumental in a Nightcap campaign. It was a grey misty day and the forest was quite overwhelming. I asked, "Which way back to camp?" Every single one of the half dozen of them pointed in a different direction.

**The Hon. Melinda Pavey:** I bet it was a dark and stormy night.

**Mr IAN COHEN:** I can tell you about that one too—a number of dark and stormy nights stuck out in the wilderness. I return to New South Wales.

**The Hon. Michael Veitch:** To the leave of the bill.

**Mr IAN COHEN:** Things can take time and amendments have to be prepared, but at least we are on our way. One of the big disappointments of this legislation is the way it arrived like an avalanche. The time that my office had to prepare amendments and provide constructive input to this bill was short, sharp and haphazard. It was almost impossible to get a constructive dialogue, particularly with the Parliamentary Counsel's Office, which does its best. However, in these circumstances I had hoped this debate would have been called on tomorrow as I originally expected. As a result, I ask the House to bear with me.

**The Hon. Michael Veitch:** I will bear with you.

**Mr IAN COHEN:** Thank you. I am disappointed with the rushed manner in which the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010 has come before the House tonight. I wish we could have obtained further legal advice on whether the bill represents an improvement on the existing Act. It is disappointing because the Minister consulted with many New South Wales environment groups on the bill and those negotiations were heading in the right direction. However, the bill simply has not gone far enough to allay the concerns of many in the environment movement that it may substantially change the tenor and object of our national reserve system. Considering the good faith in which these negotiations took place, it would have been more appropriate to allow us to reach a better agreement about the intention and effect of this bill.

What must be kept in mind is the sensitivity about how our reserve system and protected areas are managed. Our stewardship of protected areas dictates the legacy we leave for future generations in this State. Once a step is taken beyond the classic interpretation of a national park area and the concept of moving lightly and sensitively into such an environment, often pristine and mostly fragile environments, it cannot easily be withdrawn or brought back. It is not like a man-made environment where we can construct something or build another bridge to fix up something or redirect something.

Sometimes these environments have been damaged and they have taken a long time to heal. Mistakes in designing, developing or increasing access into national parks, if they are mistakes, take generations to turn

around and then heal the actual environment being impacted upon. It is a significant step. People in the environment movement suffer much angst because the Government considers them just a bunch of ratbags. People have risked their lives and suffered a lifetime of dedication, angst and stress—neurosis in some cases—to try to win over these areas. People from generations ago dedicated their entire lives to lobbying and working to win over these areas. Nothing is more special in New South Wales than our wonderful environmental heritage that has been captured, to use the words of the Shooters Party—I hope its members are listening—from many other forms of land use and given essentially a sort of sacred protection from the ravages of modern civilisation. Just tiny remnants remain of what were once beautiful environmental areas.

About 3 per cent of the northern New South Wales magnificent world heritage rainforests remains of the original big scrub rainforest and other areas. Tiny remnants remain of the past experience on this continent and in this State. Governments, Ministers, advisers and many who do not have much experience in these sorts of environmental circumstances become a bit impatient and think, "We're just going to do a little bit of facilitation to get greater access and make it pay its own way." One would have thought it should be like museums, great if they pay their own way, but we do not downgrade some of the magnificent museums in this State if they do not. They have an intrinsic value within themselves to be protected and respected.

From that point of view, this legislation is taking a significant step. I hope that the fears of the environment movement, and myself in this case as a representative of that movement, are wrong. I hope that the stewardship of the Government is highly responsible. But knowing that there is an economic need and drive, even though the green shoots of this State have now flourished into budget surplus, we are still driven to push legislation at a great rate through this Parliament, legislation that has a significant economic driver as a motivator rather than the appreciation of the value of national parks in this day and age in this State and country where we have a certain luxury of being able to protect our most important ecosystems. That luxury is not always afforded to many other countries in which people are competing with the environment to survive in the short term and, hopefully in the long term they too will have such an environment to appreciate. I think it is starting to happen. At an international level there is a great deal of input. A short time ago I saw in the media that Norway made substantial contributions to the Indonesian Government to assist it to increase its national park estate and protect its rainforest. That is something Western nations are doing and we are seeing it globally. It needs to happen, but in New South Wales economics is still a driver—

**The Hon. Matthew Mason-Cox:** How would you sum up?

**Mr IAN COHEN:** Would you like to make the speech? There is something in New South Wales that moves us in a commercialised direction that is possibly dangerous. There is a passionate concern. It is a fundamental element in history. The landscapes represented in our protected areas tell an important story about our shared history. People are passionate about this; I am passionate about this. Anything that may threaten our stewardship of protected areas or detract from our ecologically sustainable management of them will raise the ire of many citizens in New South Wales who strongly and wholeheartedly support the Government's objectives of conservation and management.

Before addressing the substantive elements of the bill, I would like to debate and discuss more generally the themes and issues associated with tourism in our national parks. What has been proposed is a significant shift in focus for national parks. It is important to consider the recent history. In June 2008 the O'Neill report on New South Wales tourism was released. The report referred to national parks as State-owned tourism assets. To my mind, that in itself is labelling that is extremely dangerous. It is, as I have said on other occasions, rather Monty Pythonesque. The report called for a shift in philosophy away from protection as a priority for park management to opening parks for private tourism development.

In response to the O'Neill report, the New South Wales Minister for Tourism and the Minister for the Environment jointly established a task force on tourism in national parks. The task force was given a mandate to examine ways in which State Plan objectives in relation to the National Park Estate, including increased visitor numbers and greater tourism industry contribution to park management revenue, could be achieved. The Treasurer, the Hon. Eric Roozendaal, and Treasury are strongly fixated on the latter objective. National parks are virtually the last bastion of environmental protection, but the bean counters are getting their hands on it. That is the nature of this Government.

The Labor Government in New South Wales has gone from really enthusiastic environmental projects and wins in the early days of the Carr Government and some pioneering and historic wins in the early 1980s by

the Wran Government to a major change. I have felt the change of attitude by the Government and the Opposition in this House in relation to national parks, and now national parks are being described as an asset that is available to somehow take advantage of. It is tantamount to commercialising St Mary's Cathedral.

For those who believe and admire St Mary's Cathedral, it is an amazing example of architecture, but the idea of turning it into a moneymaking venture to increase tourism—getting people through the doors to enjoy the ambience and pay more money to perhaps undertake guided tours or even climb the steeples to which the New South Wales Government contributed \$5 million in 1988 when there was still a religious fixation in this House allowing that to happen—is analogous with the suggestion that is being made in relation to national parks. It is absurd.

St Mary's Cathedral is a religious and spiritual icon. In much the same way, national parks are icons for many people—and, I suggest, a growing number of people. As long ago as the early 1980s, approximately 70 per cent of the people of New South Wales wanted rainforest logging to cease, so there is massive support for protective measures in respect of national parks. But this legislation represents leveraging of our National Park Estate to deliver more money into State coffers, not into investment in conservation of our national parks.

The terms of reference of the task force did not adequately guide the task force members to deliver a report that would provide substantive pathways of achieving higher visitation rates without adverse ecological impacts and subjugation of conservation values. The task force's mandate ignored the historical framework in New South Wales for managing protected areas. In 2004 the then Department of Environment and Conservation published a state of the parks report that succinctly stated:

The primary purpose of the NSW park system is to provide security in perpetuity for the state's natural and cultural heritage.

That is a pretty big responsibility. It is a responsibility that I know many people in New South Wales would hope that the major parties involved in the government of the State would take very seriously. The move represented by this legislation potentially jeopardises this basic principle of protection. The 2004 report suggested that that should be the basis on which any tourism activities in New South Wales's national reserves were to be considered, with conservation at the apex of priorities. We should not deviate from that principle. Conserving natural and cultural heritage in protected areas continues to have strong resonance with local communities up to the global stage, as I have previously mentioned.

In December 2008 the tourism task force delivered a disappointing and ill-conceived report that was littered with corporate lexicon buzzwords and advocated the need for high ecological impact accommodation in New South Wales's most sensitive ecosystems. The dominant diatribe of the task force was obsessed with creating business certainty at the expense of environmental planning and park management, and removed judicial oversight into tourist developments. I will draw on some of the recommendations to demonstrate the point I make. Recommendation 2 suggested that the New South Wales Government should focus on iconic experiences through—

Opportunities for product development in these locations in or adjacent to parks, other public lands or private lands, with appeal to target markets ...

Do we really want this spivvy type of marketing of our national parks estate where the profit motive totally consumes the need to incorporate park infrastructure with conservation principles? What will we get? I know there is a stated desire on the part of this Government to attract more people into national parks. I concur with the importance of people visiting, enjoying and experiencing national parks.

I can only say that some of the most formative experiences for me in my early teenage years were when I went to the Blue Mountains and went walking in the wilderness in groups organised by the Boy Scouts. It was an experience for a city kid that was right out of this world, and it is something that has remained with me ever since. I do not deny the need for people to come into national parks, but at the same time it is absolutely imperative that they step into the national park arena as they would step into a cathedral—with absolute respect.

When we see tourist-oriented organisations and tourist-representative organisations making recommendations to the Government by using terms such as "assets" and "target markets", it is quite clear why people are becoming very upset and distrustful. Professor Ralph Buckley has participated in a number of events. I spoke with him at the University of Sydney approximately 18 months ago. He holds real concern for the direction that the New South Wales Government is taking in relation to national parks. I cite his article headed "Can we afford wilderness?", which states:

The economic perspective of wilderness is mainly political. Humans have been using the environment for different purposes, and most of the time is not sustainable (logging, cropping). Some people say that we should use the wilderness 'sustainably'. As a



matter of economic perspective, the total cash cost to buy all the world's remaining areas of high biological diversity at current local prices is less than annual US expenditure on soft drinks. Naturally, humans rely on relatively undisturbed natural ecosystems to clean the dirty air and water which emanate endlessly from our cities. Moreover, wilderness areas, especially oceans and tropical grasslands and forests, absorb atmospheric carbon to mitigate human induced climate change.

"Biochar" is an artificial attempt to do this, however, it's a lot cheaper and more effective to keep those areas under native vegetation and let the plants maintain soil fertility. Wilderness areas worldwide provide for a large number of goods and services and are at least twice as large as the entire global economy. Moreover, it provides for genetic diversity, which underpins food, textile and pharmaceutical industries. The genetic material found in the wilderness is unique and pharmaceuticals have been paying a large amount of money in 'bioprospecting' rights to make use of these valuable resources.

So is it possible to use the wilderness sustainably? Firstly, we already use wilderness all the time, every breath we take and every drop we drink uses wilderness. Secondly, the concept of sustainability, which is vague, is completely dependent on scale.

At a global scale, there are large areas where the human economy consumes the natural environment: towns, cities, mines, logging areas and croplands. At local scale, small number of humans with low material demands can live in slightly modified natural environment, which provide economic services and environmental services at the same time.

In developing nations, parks are protected on paper but not on the ground, and are subject to illegal incursions. In both developed and developing nations, oil and mining lobby continually the rights to operate inside parks, pretending that this will not destroy their value for conservation and wilderness.

National Parks in most countries are routinely used for recreation as well as conservation. It has become part of modern politics that parks agencies must work to maintain political constituencies and operational funds and independent recreation is one of their tools. World Heritage Areas are major drawcards for both domestic and international tourists. At least a quarter of the entire Australian tourism industry bases its business principally in natural areas, including private as well as public.

Worldwide, most of the commercial tourist accommodation and infrastructure is on private property outside parks, with activities inside protected areas. At a smaller scale, there are private landholdings running as conservation reserves funded by tourist lodges. However, they are not necessarily contributing to global conservation, the goal of public protected areas. Commercial property developers see public owned parks and wilderness as opportunities to profit. And if developers can negotiate exclusive rights in national parks, then they can raise prices and reduce services with not competition.

The term used for this approach is partnership, which is also a misleading term. Tour operators want to use national parks resources and to have a say in park management practices. They do not offer park agencies their company resources or a say in managing their business. Therefore, it cannot be considered a partnership.

Some park agencies worldwide have commercial deals with tour operators too, but these make up only about one twentieth of total turnover, and those deals may not even cover costs.

There are some private hotels in US national parks, but they were built in pioneer days and have presented problems ever since.

The suggestion that hotels inside parks instead of outside will somehow contribute to conservation is simply not supported by evidence. People want to go to parks cheaply and camp. For instance, the proposals to build the Wilson's Promontory National Park in Victoria some years ago raised objections in the State. People want wilderness to stay as it is.

Under this time of population growth, the bottom line, and is a triple bottom line, social and economic as well as environmental, is an old truism from the pioneer days. "In the wilderness is the hope of the world."

Returning to this bill, a more problematic element is that the State Plan objective of increasing visitation rates by 20 per cent in 2016 is not consistent with some of the recommendations of the task force. The branded iconic national park tourist experience is essentially about elite tourism experiences. Consider the National Landscapes Program line of reasoning that pushes the idea that:

From a tourism perspective, the desired outcome could be yield, not volume. It may make far more tourism and conservation strategic sense to have lower numbers of high yield visitors than higher numbers of low yield visitors.

In other words, the task force advocated the attraction of cashed-up individuals and tourists to New South Wales national parks for elite tourism experiences, which are out of reach for the majority of people in New South Wales. By pandering to the needs of this target market clientele, the National Landscapes Program and the task force suggest that a lower number of national park visitors who spend more money per capita on national park experiences is a good conservation outcome for our protected areas. The National Landscapes Program appears to be pushing an illogical assumption that a high volume of nature-skilled park users who do not require the same level of infrastructure to support their tourism experiences and will not spend as much money in parks have a higher ecological footprint than those select few who can afford high-cost, high-impact infrastructure supported experiences.

For a peak government agency to be making such unfounded claims is irresponsible. What this submission is saying to the New South Wales Government is to forget about increasing national park visitors as a New South Wales State Plan benchmark; the benchmark should be grounded in increasing per visitor

expenditure. The ministerial task force picks up on this concept by citing a Tourism Victoria report from 2008 that suggests that different nature tourism participants have different tourism infrastructure needs, although the task force acknowledges that visitor satisfaction surveys worldwide have demonstrated that the majority of visitors to parks and reserves prefer minimal infrastructure consisting of a limited number of visitor facilities, such as walking tracks, lookouts, maps and directional signs for independent park exploration.

The task force urges the New South Wales Government to adapt to the alleged changing composition of tourism participant markets based upon the markets the Tourism Victoria report identifies. Let us remember that national parks already pay their way. According to a 2009 report by the World Wildlife Fund Australia, GST revenue from visitors to national parks in Australia generated \$748 million in 2006. This exceeds the cost of running all parks in Australia that year, that is, \$702 million. In New South Wales our parks currently receive 22 million visits a year. In turning to the substantive provisions of the bill, it is appropriate that we acknowledge the divergent opinion on whether the bill represents a weakening of the current Act. Items [2], [4] and [10] in schedule 1 propose to insert the phrase "sustainable visitor and tourist use and enjoyment" into a number of provisions in the Act, including definitions, national parks and wildlife powers, plans of management, principles and reserve management principles.

The insertion of this phrase has been debated in various legal advice on the bill, with the primary question being: Is there any difference between a "visitor" and a "tourist"? A tourist can be a person who visits a national park; a visitor can be a tourist who enters and uses a national park. It is not necessary to have a debate about the semantics, and I think the change in terminology is simply window-dressing so that Treasury can tick off a few boxes in its State Plan objectives. However, the word "tourist" has some cultural baggage and associations compared with the word "visitor". In the end we should encourage both domestic and international tourists and visitors to experience the natural beauty of our National Park Estate.

Item [17] in schedule 1 removes the existing section 151 of the Act and replaces it with a proposed division 1. Proposed section 151 gives the Minister a power to grant leases and licences over land and existing structures in national parks. Such leases and licences may provide exclusive use of the land or existing structures, a right to erect a new building on land and the right to modify an existing building on national parkland. Proposed subsection 151 (3) requires that in exercising a ministerial power to issue a lease or licence the Minister is to give effect to the objects of the Act. The key concepts of protected areas would have much greater protection if the Minister was required to act in accordance with sections 2A (1) (a) and (1) (b) of the objects. It is disappointing that the Minister has adopted the recommendation put forward by a number of legal minds. It is interesting that so much power is vested in the Minister. One can hope that the current Minister is responsible. In some circles people have cynically said, "Well, Labor gains the great areas of national park and the Coalition looks after the infrastructure". We will find out whether that is the reality if we have a change of government next year.

**The Hon. Don Harwin:** It certainly was last time.

**Mr IAN COHEN:** I acknowledge the Hon. Don Harwin's interjection. If there is a change of Government next year I hope that the Coalition takes great care of and improves park infrastructure and that it is not pushed into further commercialisation. As a conservationist I feel that we are in a vulnerable position partly as a result of this legislation, which sets up many opportunities that the Government may not be able to resist. However, if it resists those opportunities, there will certainly be much greater acceptance of whatever government is putting these plans into action. Obviously not much can be developed in the short period before the next State election, although a lot of promises can be fulfilled and many deals done in terms of commercial operations, even in the short period before March of next year. Either way, it moves the National Park Estate into a higher level of insecurity beyond what I feel we have achieved over the many years of working in a dedicated way towards the protection of these wonderful areas.

Proposed section 151A restricts the Minister's power to lease and licence land as per proposed section 151 to leases and licences with a specific purpose. This proposed section does not apply to nature reserves. These purposes include: parks services such as first aid, surf life saving and fire protection services; natural heritage research facilities; sporting, recreation, educational and cultural heritage activities; and any other purposes consistent with relevant plans of management and reserve management principles. In relation to the general purpose lease and licensing provisions in proposed section 151A (1) (a), the Greens and New South Wales environment groups do not think sporting activities or unconstrained recreational activities should be included in the bill.

I do not have to remind the House about the use of northern New South Wales national parks and World Heritage listed wilderness areas by the Repco Rally, which was such a travesty. That rally was a perfect example of what this Labor Government thinks are appropriate sporting activities for our national parks. What type of government encourages rally driving through ecologically diverse national parks? The decision to allow the Repco Rally to go ahead in our national parks is what this Government will seek to do if we allow this purpose to remain in the bill. I know the rally was very strongly pushed by then Minister Ian Macdonald. Many people on the North Coast and right throughout New South Wales feel relieved that he has gone, because of his very cavalier attitude. He developed a very cavalier attitude when it suited him to be very anti-environmentalists.

It is important to remember that this bill segues into the next stage of development of national parks. For several days I was with the protest against the Repco Rally and I watched rally driving and the protest. I observed the massive amount of public money spent on policing the event with riot squad police brought up from Sydney to manage it. It was a fiasco. I also helped rescue a snake, which was a rather uncomfortable experience, that had been run over by one of the rally drivers.

**The Hon. Michael Veitch:** What kind of snake?

**Mr IAN COHEN:** It was a harmless carpet snake on the road out near Kyogle. It was reported that many other animals had been damaged during this event. If that is symptomatic of the type of event that will be allowed in World Heritage areas, it is really an indictment of this Government. I had a certain relief when Minister Macdonald resigned, but it was only for a couple of days, because now we are looking at legislation that allows the same type of event to be undertaken. Many people in northern New South Wales in the supposed green caldron, as it has been named by the Government's tourist authorities—the caldera in northern New South Wales, one of the great biological hot spots of Australia and the world, for that matter—believe that we should not contemplate continuing this type of emotive rally.

I wonder who made money after all that government expenditure. How much money was made from the global television rights? Which government departments received it? What individuals gained from that largesse? They used the local environment for an international event and then cleaned up on the international television rights and such like. There has been toing and froing of legal advice about this matter, and I have an advice from Tim Robertson, SC. His memorandum of advice on this bill states:

1. This Bill was introduced into Parliament on 3 June 2010. I prepared an advice on an earlier draft Bill on 11 May 2010. Mr Walker SC prepared an advice on 1 June 2010 concerning a later version of the Bill.
2. The gravamen of Mr Walker's advice is that the Bill (in its current form) strengthens rather than weakens the protections in the existing Act for National Parks and other conservation reserves. He concludes (para 24) that the Bill "does not alter, in any way that has any significance for conservation values, the present capacity for [food outlets and accommodation premises etc] to be permitted within National Parks". Mr Walker's "etc" is left hanging, so it might be useful to explain what it involves.
3. Much of Mr Walker's advice seeks to justify this conclusion by reference to the leasing powers conferred for the adaptive reuse of existing buildings within National Parks (paras 16-20, 23). These powers include the provision of retail outlets, restaurants, food outlets, and conference, sporting and general tourism facilities. Regrettably, Mr Walker did not point out that these leasing provisions (in s. 151B of the Act) only apply, on my instructions, to about 50 hectares, that is, 0.0007% of the National Parks Estate. Mr Walker considers these provisions to be significant and noteworthy. They are irrelevant. They are designed to allow adaptive reuse of buildings which are in the main heritage premises, in accordance with *Burra Charter* principles, to advance the cultural heritage objectives of the Act, or to facilitate existing uses in accordance with the policy expressed by s.39 of the Act.
4. In the versions of the Bill which I considered, a lease or licence of land could be granted (in addition to the existing powers):
  - for facilities and amenities for tourists not associated with their accommodation;
  - to provide retail outlets "commensurate with the needs of the area in which that outlet is located";
  - to provide restaurants, cafes, kiosks and other food outlets;
  - to provide cultural institutions, including museums and galleries;
  - to enable the hosting of conferences and the provisions of facilities for that purpose;
  - to enable activities of a sporting, recreational, educational, or cultural nature to be carried out and the provision of facilities for that purpose;
  - to provide residential accommodation to facilitate the provision of services to tourists.

5. These were free-standing powers, unconnected to conservation purposes. The draft Bill imposed constraints on the power of the Minister to grant a lease or licence, it is true, but those constraints were only triggered upon the Minister's subjective opinion, and were in any event one of the weaker constraints known to the law: they were matters for consideration by the Minister. For example, a lease or licence could only be granted if the Minister was satisfied that the purpose was "suitable", having regard to the natural and cultural values of the land or land in its vicinity: proposed s.151B(1)(a). "Suitable" does not even mean "compatible" or "consistent" with, let alone "in accordance with" the natural and cultural values of the land. Once the Minister "had regard" to the natural and cultural values, he could proceed to make a decision in defiance of them. Some protection. There are important gradations of meaning here which Mr Walker's advice ignores. The devil was, and remains, in the detail.
6. In *Packham v Minister for the Environment* (1993) 31 NSWLR 65, the Court of Appeal decided that the power to grant licences under s.151 was not at large but was constrained by the nature and scope of the Act and:

*"... is to be understood solely as a power to advance the objects and purposes of the Act. The power can only be exercised to licence acts or conduct things the characters of which are such as to promote, or to be ancillary to, the use and enjoyment of the National Park as a public park or for public recreation".*

It said, speaking of s.151 which was in the same terms in 1993 as it is today, that:

*"... land used for public recreation and enjoyment must be open to the public generally, as of right. This was made plain in Waverley Municipal Council v. Attorney-General (1979) 40 LGRA 419 ... the emphasis in principle in this series of cases (and there are others to like effect) is unsurprising. It is that National Parks must be available for public use, and their benefits should be retained for the public generally. Development such as buildings, facilities and roads must thus be such that all members of the public with a relevant interest should equally be able to use them and to enjoy the public benefits in the National Park. Developments should, of their nature, be for the purposes, and designed for the enjoyment of, the general public, not for particular, specified individuals in order to give them some special property rights over and above others. This general principle is, of course, subject to the particular provisions of the Act. Certain subsections of s. 151 of the Act, by their nature, contemplate varieties of restricted use. But the general principle remains one to which this Court has rigorously adhered and in my view, for very good reasons, sanctioned by Parliament, it should continue to do so.*

*... incidental benefits to a park from a proposed development do not bring within Ministerial power a derogation from the use of a National Park, as such, which is otherwise outside power" (per Kirby P).*

7. The present leasing power extends only to accommodation hotels or houses and the provision within them of facilities and amenities for tourists and visitors: s.151(1)(a), (b). The current licensing power extends to occupy or use lands within the park under s.151(1)(f). The exercise of both powers has been strictly confined by the Courts to purposes which promote or are ancillary to the promotion of the purposes for which National Parks and other conservation reserves have been created. National Parks (with the irrelevant exception of adaptive reuse) cannot be used for wider purposes such as those which the draft bill sought to authorise. Not only is Mr Walker's criticism misplaced, the Canadian decisions on comparable legislation reinforce my point that, even with express duties on decision makers to regard the objects of the Act, the Courts will not interfere with discretionary decisions to approve development in National Parks where broad powers to authorise use or occupation are conferred of the kind proposed in the draft and now, to a lesser extent, in the bill. Where compliance with statutory objects are to be judged by Ministers, intervention by the Courts is unlikely: *Canadian Parks and Wilderness Society v Canada* [2003] 4 FC 672; *Bow Valley Naturalists Society v Canada* [2001] 2 FC 461.
8. The Bill before Parliament significantly alters the draft Bill upon which I earlier advised. In proposed s.151A(1)(b), it states the purposes "related to the sustainable visitor or tourist use and enjoyment" of conservation reserves for which a lease or licence can be granted as follows:

- (i) *the provision of accommodation for visitors and tourists,*
- (ii) *the provision of the following facilities if the facilities are ancillary to accommodation facilities for visitors or tourists:*
  - (A) *retail outlets,*
  - (B) *facilities to enable the hosting of conferences or functions,*
  - (C) *facilities to enable activities of a sporting nature to be carried out,*
- (iii) *the provision of facilities and amenities for visitors and tourists} including the following facilities:*
  - (A) *information centres and booking outlets,*
  - (B) *restaurants, cafes, kiosks and other food outlets,*
- (iv) *the provision of the following facilities if the facilities are ancillary to facilities and amenities for visitors and tourists:*
  - (A) *retail outlets,*
  - (B) *facilities to enable the hosting of conferences or functions"*

9. The most outstanding difference between the draft and this Bill is that retailing, conferences, sporting activities, food outlets and associated facilities are now to be ancillary to the use of conservation reserves by visitors and tourists. This nexus was completely absent from the draft Bill, which left these wide powers of commercial development at large, except for the ineffectual "protection" in which Mr Walker wrongly placed such store. Although, as Mr Walker said, a nexus with the objects of the Act may have been implied by the Courts, that is the triumph of hope over experience. Where the nexus is expressly in the *Canadian National Parks Act*, the Courts have deferred to the decisions of Ministers and have declined to go behind them.
10. There remains, however, a real risk that the conferral of discretionary powers upon the Minister will be abused (as the Courts have found that they have been previously, in the *Simon University* and the *Packham* cases). Moreover, the Bill vastly expands the purposes for which conservation reserves can be used by tourists: conference facilities, sporting events, "food outlets", retail outlets and so on. It is difficult to envisage how the provision of a conference facility could promote the conservation of a National Park. Likewise, the construction of accommodation and ancillary facilities (now expanded significantly to include commercial retail etc) usually damages the natural environment, including the landscape values of natural areas. For example, in the *Bow Valley Naturalists Society* case, the Federal Court of Appeal refused to interfere with the approval in Banff National Park of:

*"A six-storey meeting facility with accommodation, food services, a large meeting room, and smaller 'break-out' meeting rooms ... adjacent to the current parking wing, sewer, water, waste and electrical infrastructures will be upgraded to service the expansion along with the addition of two proposed staff housing units" at [7].*

The meeting hall accommodated 700 persons. The existing hotel facility (which will now become permissible in our conservation reserves) accommodated 1,126 guests per night [4]. Although it is true, as Mr Walker points out, that the existing leasing power extends to accommodation for visitors and tourists, that power cannot be exercised presently for purposes other than to protect the conservation purposes of the reserve or its enjoyment, a purpose which the Court in the *Blue Mountains Conservation Society* case (referred to in my earlier advice) said required public access as of right.

As it is presently drafted, the Bill destroys this delicate balance that the Courts have struck, which gives primacy to the conservation objectives of the Act. In my opinion, that can only be restored by amending this Bill to ensure that, where those objectives are in conflict with land development (basically, any development for the purpose of tourism), priority is accorded to the conservation objectives of the Act.

11. With the exception of ski resorts, which are a special case, tourist facilities in the parks have largely been confined to camping sites, tracks, viewing platforms and so on. This is not tourism, as it is commonly understood. As everyone knows, tourist facilities usually involve permanent development, not readily reversible like camping areas and narrow tracks. It is difficult to envisage how a tourist development as is commonly understood could coalesce with an objective to promote or conserve biodiversity, especially over time (how can a tourist development whose impacts are only perceived after approval be reversed?). A tourist resort requires power, water and sewage facilities, increasing the footprint of development in remote areas for many kilometres. (I note that the Minister's Department is being prosecuted presently in the Land and Environment Court for allegedly mismanaging the sewerage plant in Kosciuszko National Park). Mr Walker appears to think that ESD principles would protect the park system from the adverse impacts of development. ESD principles are applied on a daily basis by planning decision-makers, who approve large scale land clearing. They were required to be applied by the Canadian Parks Authority yet, as the Courts pointed out in the cases to which I referred, they imply development and oblige the decision-maker to take into account economic factors as well as the conservation of biodiversity. As the Federal Court of Appeal said in the *Canadian Parks and Wilderness Society* case:

*"Having concluded that it was open to the Minister to consider the road proposal by having regard to the social and economic needs of the communities living in the park, it is not the role of a reviewing Court to consider whether, given the Minister's statutory duty to afford the first priority to ecological integrity, she assigned too much weight to the social and economic factors and too little to the ecological. Reviewing the exercise of discretion for unreasonableness does not entitle the Court to reweigh the factors considered by the decision-maker" [99].*

12. I have been asked to consider what safeguards could be inserted in the Bill. In my view, the principal safeguard is to adopt a variant of s.11A of the *National Parks and Access to the Countryside Act 1949* (UK). Every nation's National Park system is different, and in the UK there are existing communities within National Parks. Section 11A deals with the potential conflict between looking after the needs of those communities and tourism and conserving and enhancing the natural values of the park. It resolves that conflict by this provision:

*"(2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in [the objects clause] and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park",*

Such a provision would overcome the problem which arose in the Canadian cases, where the Courts permitted the Minister to preference development over conservation.

13. The second change which is necessary is to remove the discretion of the Minister to determine whether the leasing purposes are within the authority of the Act. This would reinstate the current position that enables the Courts to assess whether a lease is granted for an authorised purpose. This can be achieved by omitting the first three lines of s.151B(1) and inserting the following words:

*"A lease or licence of land (including any buildings or structures on the land) must not be granted under s. 151 unless:"*

For reasons which are not obvious, the leasing power is not connected with the management plans which otherwise govern operations within conservation reserves. Although s.81A provides that the management plan provisions have effect in respect of a part of a conservation reserve that is the subject of a lease or licence, that is "a dog chasing its tail" provision. It only has effect once the lease or licence is granted. If the lease or licence is inconsistent with the Management Plan, it does not give priority to the Management Plan. On the contrary, the Management Plan must be read down in the case of a conflict. As there are two potentially disparate powers, one general and the other specific, the usual approach to construction is to resolve the conflict by giving effect to the specific power especially where, as in the case of a lease, it involves the creation or adjustment of a property right. Of course, a Management Plan can be simply amended to accommodate the lease, and I would expect in almost every case that the Minister would ensure that there would be no opportunity for any conflict to arise or any work to be done by s.81A. In the unlikely event of conflict, however, it is by no means clear that s.81A resolves it in favour of the Management Plan, when it is predicated upon an existing lease or licence.

There is another reason why s.81A is a weak constraint. Management plans only constrain operations by the Parks Service and not the use to which parks may be put to others: ss.72AA(2), (4), 81(1). It appears that Mr Walker has misunderstood those provisions: [11]-[13], [31], [41].

Although some of Mr Walker's analysis is correct (especially when he deals with the improvements made to the Bill as a consequence of my earlier advice) there remain numerous issues, only some of which I have identified in this advice, where the conservation purpose which the Minister advances as the justification for this legislation can be strengthened without, it seems to me, derogating from the enhanced flexibility which the Minister desires in order to better manage the parks system.

That is advice from Tim Robertson, SC, Frederick Jordan Chambers, 9 June 2010. Under the purposes listed in paragraph (b) relating to visitor use and enjoyment of reserved land, leases can be granted for accommodation, and retail, conference and sporting facilities ancillary to accommodation. I think we should reflect on what could be possible and allowable under these provisions. The Government will suggest that the nature and form of accommodation and facilities are constrained by the sustainability criteria. I will explain why I do not think that is the case but for the moment let us assume that the purposes and general leasing and licensing power is not constrained appropriately by the sustainability criteria. The reality is that there is nothing in this bill that stops fast food outlets from establishing in national parks. The commercial reality might be a different story but in a technical legal sense, there is nothing stopping a BASIX-compliant Kentucky Fried Chicken from setting up next to cabin accommodation in Royal National Park. It would be a food outlet amenity for tourists and visitors. There is nothing in the sustainability criteria that seeks to reinforce the existing cultural aesthetics of our reserve areas.

With reference to sporting facilities that are ancillary to accommodation, we could see tennis courts, water slides, go-karting, putt putt golf, rodeo riding and rifle ranges. In the context of our reserve system these types of sporting facilities are simply not appropriate and detract from natural and cultural characteristics of our national estate. Again, the potential for cheap developer spivory is substantial. Importantly, the ongoing debacle—I think the word is appropriate in the context—with the ski resorts and golf course in Kosciuszko National Park continues to have legal protection under the bill. This is the perfect case study and example of what the conservation movement does not want in our national estate. New section 151B has been suggested as an additional safeguard to inappropriate development. I simply do not agree that we should provide such ministerial discretion as is being given in this case without the potential for judicial oversight. I have a letter from Dr Graeme Worboys from the Australian Capital Territory, who states:

I refer to the proposal by the NSW Government to amend the National Parks and Wildlife Act with the 2010 Sustainable Tourism Amendment Bill. My qualifications to respond to this proposal are based on 38 years of experience in state, national and international protected area management [from practitioner to policy level]; expertise in nature based and sustainable tourism; executive level experience in the tourism industry; national and international publications on sustainable tourism, and my academic qualifications.

I am supportive of tourism and visitor use in National Parks and understood that the tourism industry generally provides an invaluable service for visitors. This complements the excellent conservation work of (now) generations of park managers which has protected NSW's iconic natural destinations. There is a natural partnership between national parks and the tourism industry, but it needs to be managed and with leadership by protected area managers. As part of this working arrangement, park managers are aware the tourism industry is profit centred and has a superbly equipped ability to lobby and position itself for advantage. Grandiose ideas and exploitive proposals are a normal part of this management reality and so are the many failed tourism schemes in parks. Experienced managers are aware that such tourism industry rhetoric does not always match reality and that environmental performance can often be lacking. This situation requires constant leadership in order to maintain the protection of the Parks. Regrettably, the proposed Bill would change this situation for NSW. It would tip this working model into a model where powerful tourism industry interests could call the shots about what happens in Parks. I consider that the proposed Sustainable Tourism Bill, in its current form, threatens the conservation status of our National Parks.

I therefore strongly oppose this Bill in its current form. I oppose the Bill because:

#### **1. It undermines the integrity of the NPW Act**

Based on legal advice provided by Tim Robertson to the Colong Foundation, the Bill removes the legal protection of National Parks from uses which damage their ecology and landscape. Given this is correct, this is a direct threat to the conservation status of National Parks and other protected areas in NSW. It is a weakening of the Act that contradicts a 43 year bipartisan Government policy in NSW of maximum conservation protection to National Parks. It undermines the international reputation of NSW National Parks as a World leader in national park management and conservation and establishes a dangerous precedent internationally.

## **2. It transfers decision making for general tourism use purposes directly to the Minister**

The Robertson advising identifies that Section 151 of the Bill transfers decision making for tourism use in accordance with the Act from the Courts to the Minister. "The Minister will decide whether a use accords with the Park's purpose".

My opposition here is provided respectfully. The Bill provides enormous power to the Minister and provides opportunities for intense lobbying by powerful commercial organisations for exploitation of prime [as they see it] commercial sites in our National Parks. The stage could be set for "tourism mining" of National Parks in NSW where prime natural lands are developed as commercial opportunities. Such tourism mining of National Parks has already occurred under existing legislative arrangements due to intense tourism industry lobbying. A sub-alpine wet heath in Perisher Valley, Kosciuszko National Park [the summer habitat of Latham's Snipe – a migratory species subject to CHAMBA and JAMBA agreements] was originally leased for a car park, developed, and later, through re-negotiation, is forecast to be approved as a \$112 million 880 bed village in the centre of Perisher Valley. Developer profits will be gained from the subdivision of Kosciuszko National Park. The necessity for the developments in the Park [other than profit making] is highly problematic.

## **3. It undermines the status of the plan of management to conserve parks**

The Robertson advising states the proposed Section 151 "cannot be used for a purpose which is prohibited by a management plan". However, the plan of management context is ultimately controlled by the Minister. New plans (or amendments) will have regard to "sustainable tourism" initiatives and community consultation processes will predictably experience heated debates over future "conservation" versus "development" actions proposed. Compromises will inevitably need to be determined. The net potential effect is a diminished conservation status of lands. This outcome could apply (for example) to National Parks of World Heritage status, with the consequent international scrutiny this would bring.

## **4. It exploits the resources of the park rather than conserving them.**

The Robertson advising states that conferral of exclusive possession under the new Bill provides lessees with strong rights, including the ability to exclude the public from the lease. Past experience has showed that actions taken by the Lessor (the Park Agency) to fairly enforce leasing provisions [such as in the instance of this Bill, sustainability assessment criteria] have sometimes been the matter of complaints directly to the Minister by very powerful Lessees and the subsequent curtailment of Lessor action. The net result is the diminishment of natural values of the park.

Based on the Robertson legal advising, it is my view that the changes will incrementally impact the conservation status of NSW's finest protected lands over the longer term. I also question whether this Bill is necessary in its current form given:

### **1. The financial benefits to Government may be questionable.**

Financial returns from the tourism development will be negotiated and will provide some revenue return to Government. However tourism developments will also bring with them costs to Government such as legal fees, the provision of access, water, sewerage and garbage services, power supplies, ambulance services, fire response services, bush fire protection, weed control, pest animal control, and regulatory control management action costs. Compensation "for quiet enjoyment" is often required for instances such as park closures during bushfire or storm seasons. The real question is whether there is a net overall financial benefit to Government from these sustainable tourism investments? If revenue is needed, then park entry fees could possibly provide this without impacts and overheads.

### **2. Benefits to the community of sustainable tourism development in park?**

The NSW protected area system is world famous and can be justly proud of its reputation as one of the leading protected area agencies of the World. Under the present legislative provisions, the NSW and Australian community benefit from ready access, sympathetically designed and award-winning eco-tourism facilities and reassurance that investments are constantly being made towards the conservation of NSW's outstanding native species and heritage. Through the plan of management process, there is a sensible balancing of community expectations for national parks and the needs of species conservation in an open and transparent process. I am not convinced that enhanced sustainable tourism [as proposed] in national parks provides any net benefit. If new facilities are needed and are appropriate, then there are existing legislative provisions which can enable such opportunities and which can facilitate sensible discussion and input from communities as part of the process of approval. In addition, the previous DECCW policy of sustainable tourism facilities being located in towns adjacent to parks provides more direct benefits to regional economies and helps ensure that the destination is always in a pristine condition.

### **3. Sustainable tourism?**

The absence of a definition for sustainable tourism in the Bill is of great concern. In addition, the absence of clarity about which objective of management prevails in a situation of competing interests is of concern. Previous NPWS tourism management work [for example] used the term "ecologically sustainable visitor use" based the Government's ESD process and advised that environmental (ecological) management objectives would prevail in any situation of competing interests.

### **4. The impacts of tourism.**

Internationally (sustainable) tourism is considered by protected area managers as a threatening process which requires active management. In many areas, national park visitors sites [regrettably] have been trashed. In many other areas, visitor destinations are well managed and provide outstanding and meaningful experiences for people. Park managers need all the support tools available to manage tourism, including a leasing and legal environment that is sympathetic to the conservation purpose of protected areas as well as visitor needs.

Dr Graeme Worboys from the Australian Capital Territory wrote that letter. I refer next to statements by the Colong Foundation for Wilderness in relation to this bill. It states:

In a trifecta of decisions, the New South Wales Court of Appeal has decided that the current lease and licensing powers cannot be used for destructive or damaging purposes which would be contrary to serving the ecology and landscape of National Parks, or for purposes extraneous to the purpose for which National Parks have been reserved or may be managed ...

It provides legal authority for the privatisation of National Parks by enabling exclusive possession rights to be given for commercial purposes to private interests under the broad rubric of sustainable tourism ...

Section 7 requiring the Director-General of National Parks and Wildlife, when investigating proposals to add areas to National Parks, to have regard to the provision of opportunities for "appropriate public appreciation and understanding, and sustainable visitor use and enjoyment, of land reserved under this Act".

I received a letter from Peter Prineas, a long-time legal activist with various environmental organisations. Peter, who is extremely concerned about the passage of this legislation, has written to me in the following terms:

Please oppose National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010.

I have read the revised bill, apparently amended after discussions with Environment NGOs and in light of legal advising to NSW Environment Minister in Frank Sartor dated 1/6/10.

I continue to have serious concerns about this proposed legislation and I hope you will oppose it.

1. I question the point made in the advice to the Minister at paragraph 42a where it is stated that the Bill "would clarify but not broaden in any significant way the range of purposes for which leases and licences may be granted in national parks". I suggest this statement may be questioned on at least three counts.

First, the Bill provides for existing buildings and modified areas within national parks to be available for lease or licence for "any use" and not the limited range of uses presently allowed under the Act; this is no small matter given the numerous existing buildings and areas of modified lands within national parks. I believe the parks have been surveyed by DECCW for modified areas and that there are thousands of hectares in total.

Second, the Bill specifies a range of uses for new developments which are either not specified in the present Act, or if specified, are limited to the adaptive use of existing buildings and structures. These uses include research facilities, conference and function centres, recreational, educational and cultural activities, sporting activities and retail shops.

Third, the Bill opens up wilderness areas to commercial activities which are prohibited by the present Act. This is a significant extension of commercial operations which will in time adversely affect the character of many wilderness areas. It is also a fundamental contradiction of the purpose of wilderness areas in providing for self reliant recreation as provided by the NSW Wilderness Act 1987.

2. The advice to the minister states at paragraph 42b that the Bill "would strengthen the environmental controls and checks and balances in the Act on the environmental impact of the developments in national parks".

I suggest that this advice does not deal adequately with the concerns raised by Mr Tim Robertson SC in his advice to the Colong Foundation. This was to the effect that by inserting sustainable tourism (or sustainable visitor and tourist use as the term has become in the revised Bill) in the opportunities to be provided in national parks and in their management principles and management planning provisions, that this lifts the constraints imposed by a line of court decisions (Woollahra, Scharer and Blue Mountains Conservation Society) on the Minister's power in section 151 to grant leases and licences within national parks.

A nominal effort has been made to insert into the Bill some checks and balances (such as incorporation of ESD principles into the definition of the term "sustainable", involvement of the National Parks and Wildlife Advisory Council at some points, and provision for public hearings) however these provisions are very weak compared with the enhanced decision-making power and discretion of the Minister which the Bill confers and its effect in limiting review by the Courts.

The advice to the Minister states at paragraph 42c that the Bill would "better secure the protection of the natural and cultural values of national parks than the admittedly already considerable protection given by the Act."

Once again I think this is a conclusion that cannot be accepted at face value, given Robertson SC's advice that the Bill "removes the legal protection of national parks from uses which damage their ecology and landscapes" and given also that the general aim of the Bill is to promote more development in national parks.

I shall not quote any others; I probably have read sufficient at this point in time. It is disappointing that people have to register concern and opposition to this type of proposed legislation. Given the history between the Government and me on many forest and national park conservation issues and the relationship that we have built up over the years, I should have thought that we could work together more effectively. I feel a resistance from within the national parks bureaucracy, and that is probably driven by Treasury constantly pushing to achieve greater returns. Sadly, because of a lack of interest on the part of the current Treasurer—and of past Treasurers also—in environmental issues of such importance to the people of New South Wales, I cannot support this bill. I will watch with intense interest to see how things unfold. Obviously, the bill has the support of both major parties, but it certainly does not have the support of the Greens.

**Reverend the Hon. Fred Nile:** Not all on the crossbench are of that view.

**Mr IAN COHEN:** I acknowledge the interjection of Reverend the Hon. Fred Nile, but when it comes to conservation I do not believe his vote counts for anything, other than as a vote to support the major parties.

**Reverend the Hon. Fred Nile:** I am supporting it in principle.



**Mr IAN COHEN:** You are supporting it in principle?

**Reverend the Hon. Fred Nile:** Yes.

**Mr IAN COHEN:** It is good to know that Reverend Nile has principles. It will be interesting to note what judgement is passed on tonight's processes, the lead-up to this bill, the Government's haste to deal with its final stages, and the fact that it sat for such a long time on the bottom of the list, as it were, with only the occasion joke being made that it remain there. The Greens do not support this bill.

**The Hon. KAYEE GRIFFIN** [9.22 p.m.]: I am pleased to speak on the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010, which has my full support because not only does it clarify what operators and park managers can do in our parks, but it also affords a significant amount of environmental protection to the wonderful landscapes, flora, fauna and cultural heritage that the New South Wales reserve system is in place to protect. This Government has worked hard since 1995 to both expand and protect our national parks and reserve system. The objects of the National Parks and Wildlife Act 1974 are very clear in their intent to facilitate a range of offers for people to experience, appreciate and enjoy national parks. By planning, implementing and promoting genuine, immersive, memorable and meaningful experiences, we will be strongly placed to both introduce a brand-new audience to conservation and to foster an even greater level of meaning and understanding in existing supporters. This is the crux of the bill.

Sustainable, nature-based tourism is one of the fastest-growing sectors in the Australian tourism market and New South Wales is well placed to share in some of this growth in ways appropriate to the natural areas we manage and protect. The Government is focusing on outstanding experiences with points of difference that encourage people to stay for longer periods in our regional cities and rural towns. Our national parks play such an enormous part in this plan. The Government is committed to invigorating existing experiences and working with private operators and community-based organisations to develop new, immersive and innovative ways for people to experience nature, and that, in turn, will encourage them to stay a little longer. Some concern has been expressed about new buildings and facilities being developed in parks. The Government has been very clear about its intentions in this regard.

A primary purpose for establishing parks and reserves under the National Parks and Wildlife Act is the ongoing protection and enhancement of conservation values. Therefore, this pre-eminent value of parks must remain and all visitor and tourist use must be compatible with this core role. The bill does not propose any amendments that would allow leases within wilderness areas. Let us be clear: There can be no accommodation developments in these special places. Outside of wilderness areas and nature reserves, which make up 43 per cent of the park system, the Government sensibly wants to consider appropriate accommodation options—but only where they meet the requirements of the new clause that sets out a number of matters about which the Minister of the day must be satisfied prior to granting a lease or licence on reserved land. These requirements, as set out in the bill, are compatibility with the natural and cultural values of the land and its surroundings; provision for the sustainable and efficient use of natural resources, energy and water; and appropriate built form and scale, including bulk, height, footprint, setbacks and density.

A further measure that provides significant transparency and accountability is a new requirement for the director general to adopt sustainability assessment criteria that outline how the Minister of the day should consider the compatibility, sustainability and appropriateness matters that I have just outlined. Further to this, the Director General of the Department of Environment, Climate Change and Water must provide the Minister with a report that assesses a lease or licence proposal against the assessment criteria. These additional requirements set the bar very high insofar as a proposal's environmental considerations are concerned.

It is important for me to emphasise that the current National Parks and Wildlife Act already allows new accommodation in national parks. In fact, the current Act allows for the development of accommodation hotels or accommodation houses. However, I stress that the Act does not provide any clarity with regard to the environmental and sustainability standards that the Government requires of operators. Our national parks and reserves are special places. We think the new sustainability measures afford the protection that is clearly missing from the current Act. We want to foster understanding and certainty in any potential operators and we want to ensure that park managers and departmental officers have very clear guidance in working with future partners.

This bill achieves those aims. I place on the record my support for the amendment relating to the licensing of tour guides and activity leaders to operate in declared wilderness areas. We are talking about the type of accredited, licensed operators that already guide groups of people safely through our national parks. This

change relates to those activities that are already licensed in other areas of the reserve system, such as low-impact activities like walking or canoeing. I congratulate the Minister on his fine efforts in working with a broad range of stakeholders to finalise this bill. It is a fine proposal, and I have pleasure in today providing my support for it.

**Reverend the Hon. FRED NILE** [9.27 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010, which will enable sustainable tourism and visitation to encourage more people to experience and connect with nature in a way that builds a greater constituency of support for national parks. One problem with past policies has been that national parks have been locked up, and this has caused them to deteriorate rather than to develop naturally, and ultimately to be partly destroyed by bushfires fuelled by excessive forest waste. The bill will remove anomalies relating to the leasing and licensing of Aboriginal lands and other reserve categories. Importantly, this will assist Aboriginal people to develop ways and means to improve their quality of life, and to have a form of employment and income as they care for their land.

The bill aims to improve equity of access and the safety of visitors by allowing low-impact tours into wilderness areas. The bill will allow licensing activities of a scientific or educational nature to occur in nature reserves. It will also improve transparency by extending the existing requirement to advertise leases in ski resort areas to all leases for new developments and significant modifications to existing buildings. This provision will add an additional step, over and above those already required, prior to the Minister granting a lease—which is a requirement to publicly advertise the proposal to lease or license. It allows time for community consultation and provides an opportunity for people to voice their concerns about a proposal.

The bill seeks to improve transparency by referring proposals for new leases and licences to the advisory council. This new provision will improve the transparency and openness of leasing and licensing. The bill will strike the right balance by providing leases and licences for new visitors' facilities and activities while strengthening protection of the values of the park system. It will also improve the sustainability of visitors' facilities by introducing statutory assessment criteria.

The bill clarifies the time frame for exhibiting amendments to plans of management as 45 days. There is a need to make explicit the period of consultation for amendments to plans of management to ensure efficient and timely consideration of conservation and other management issues that may not have been anticipated when the plan of management was written, including proposals for new visitors' facilities or activities. It is proposed that amendments to plans of management will be exhibited for 45 days. The consultation period for a new plan of management and substitution plans, whereby an existing plan is replaced by a new plan, remains unchanged at 90 days. That should be an adequate period for individuals or groups to respond to the new plan of management. I am pleased to support the bill.

**Ms LEE RHIANNON** [9.31 p.m.]: My colleague Ian Cohen has made a very strong case for the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010 not being passed by this House. I congratulate him on his very thorough analysis. I certainly endorse his comments and the congratulations he offered to environment groups, community organisations and many individuals who have raised their voices in concern. As we know, the bill was well advanced before the current Minister for Climate Change and the Environment, Mr Frank Sartor, was given the portfolio. Even though that is the case, the Minister still had an opportunity to stand up for the environment and protect the integrity of our national parks. Protection of the integrity of our natural landscape is the very reason that our national parks were established.

Perhaps the Minister agrees with the legislation, or perhaps he was unable to stand up to the determination of those who were pushing for the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010 to be passed. Certainly the Minister has been captured by the interests of developers and backers within the Labor Government who are most eager to have this legislation passed by Parliament. Many comments have been made during the debate to suggest that the bill will merely give opportunities to more people to enjoy our beautiful natural areas. However, when the implications of the bill are examined closely, it is obvious that the bill goes much further than simply offering people another experience in nature. This proposed legislation can destroy much of that experience.

The bill removes legal protection from national parks regarding uses that damage the ecology and landscape. It provides legal authority for the privatisation of national parks by allowing leases to be given for commercial purposes to private interests. When the bill is passed, national parks will be able to be used for general tourism purposes, such as resorts, convention centres, shopping centres, fast food outlets, sporting activities and fun parks—and all at the discretion of the Minister.

My colleague Ian Cohen compared the effect of this bill to part 3A of the Environmental Planning and Assessment Act. The comparison is most apt because this proposed legislation provides for another planning instrument. Not only has that course of action been widely discredited, but it also gives absolute power to the Minister. As we know, under part 3A of the Environmental Planning and Assessment Act the Minister not only can ignore key laws, such as environmental and heritage legislation, but also can ignore the advice of his own director general. For all the fine words that may have been said by some members in their attempts to justify this legislation, at the end of the day the Minister has enormous discretion to approve developments inside national parks. The Minister, not the courts, will decide whether a use accords with a park's purpose. I cannot emphasise that strongly enough. That is the reason the Greens are so deeply opposed to this legislation.

Presently the Minister is not able to grant a lease to clear land in a national park on which to build a tourist resort. However, when the bill is passed by Parliament and becomes an Act, the Minister will have that power. Labor and Coalition members must realise what they are signing off on. It has been said many times in the House that this Labor Government is on borrowed time. If that is so, it is about to hand considerable power to the Coalition. If a Coalition government had introduced this legislation, the Labor Opposition and Labor members would remember their heritage and the legacy that former Premier Neville Wran passed to the Labor Party—a legacy that has been watered down and forgotten—and they would fight this legislation, tooth and nail.

As we know, national parks are critical environmental refuges and places for interaction with nature. We cannot let the Government compromise such precious areas. Interaction with nature is incredibly important, but people do not need convention centres and fast food outlets to achieve that. Too much emphasis has been placed on tourism. The Greens' position on tourism is often distorted. We certainly recognise the importance of tourism to the economy of New South Wales, and the increasing popularity of nature tourism is quite wonderful. But let us remember that the way to benefit many regional areas is to provide development in regional towns that are near national parks. Experience has shown that if development is undertaken in national parks, investment will bypass nearby towns, which is where jobs growth is needed. That is another reason why the legislation is so deeply destructive.

I congratulate the many environmental groups that have contributed so much effort to expose the destructiveness of this legislation. I particularly congratulate the Colong Foundation for Wilderness. For well over a year, Keith Muir and other members of that organisation have worked tirelessly to inform people that the bill is not what the Government pretends it to be, that its implications are much more far reaching, and that ultimately it will dismantle the very essence of national parks—why national parks were set up in the first place. In common with my colleague Ian Cohen, I have received considerable correspondence on this issue from people who are very distressed about what they know is embodied in the legislation and the impact it will have.

Many people have reminded us of the great heritage of people such as Milo Dunphy and the Coast and Mountain Walkers Club, which was the first bushwalking club of which I was a member. The club is no longer in existence. But many people remember the incredible contribution of so many individuals and organisations to establishing the wonderful national parks that are found in many parts of New South Wales. I received a letter from Dr Jennifer Gill, who expressed her concerns about what the Government is poised to do to our national parks. She urged the Greens to do everything we can to ensure that the legislation is not passed. Unfortunately, we know from the contributions made tonight that this legislation is about to be passed. The work, campaigns, struggles and fights to protect our national parks will not stop because this legislation is about to become law. What the Parliament is about to allow to happen to our national parks is serious. Again, I pay credit to the people who have worked to expose this bill and say the battle is not over.

**Dr JOHN KAYE** [9.40 p.m.]: I support the words of my colleagues Ian Cohen and Lee Rhiannon, and I echo the words of the environment groups that have been so active in opposing this legislation and what it stands for. There are good reasons for wanting to cherish and protect our national parks. Those reasons include that national parks form a crucial set of environmental refuges for the conservation of fauna and flora species that might otherwise become extinct. National parks are also special places for people to interact with nature. That interaction is important not only in and of itself and for the values that it gives and the benefits it delivers to those who can get to national parks and enjoy them, but also for the way in which it maintains the value of wilderness in our society, and the way it maintains within our society the essence of our connection to the place from whence we evolved and the place that we so desperately depend upon, and that is nature.

National parks are also a reminder of the fragility of the planet that we walk on and the way in which we as a species have so dramatically changed the surface of the planet, so much so that it is being lost. This bill will undermine each of these objectives. Each of these values of national parks will be lessened dramatically if

this bill becomes law this evening. Each of these objectives, when lost, will weaken our society, our culture, our economy, our ability and our resilience to stand up to what comes next in the ecological catastrophe that is befalling the surface of this planet. There is an inherent contradiction between the values of commercialism and the values of national parks. They simply do not mix in any way.

We have heard glib words from the department and Ministers over the past year about how this is improving access to national parks, and that those who would oppose this idea are inherently elitist. That is utter and complete nonsense, and it is turning the truth on its head to justify what is effectively a land grab and a grab for cash at the expense of national parks. Access to national parks is important and should be encouraged, and as a society we should be investing, particularly for people with disabilities. I have visited a number of national parks where there are excellent interpretive trails for people with a variety of perceptual and physical disabilities, and those are the sorts of activities that should be encouraged. I have stayed in accommodation on the edges of national parks and I have camped in campgrounds. Like many members, I have availed myself of those facilities.

And more can be done with those facilities. But encroaching upon the national park, taking away the lands that should be our sacred lands to allow an enterprise to turn a profit, to allow the Government to collect leasing, to turn those from centres of human connection into centres of government profit, is an appalling travesty of the values of national parks. This is the beginning of the end of that which we value about the national parks system in New South Wales. This is a large chip out of that which makes national parks special. I urge the Opposition to review its position, to think carefully about whether it wants to go along with Frank Sartor's grab for cash at the expense of the natural environment. Members opposite should think carefully about where they look in the next election and their environmental credentials.

Anyone who votes for this legislation cannot go to the next election with any hope of having any environmental credentials. At the very core of a commitment to the environment is a commitment to the national parks system and to those nature reserves that we hold as so important. To hand those over to a profit-making entity—to those who would make money from them and who would lower the values of those national parks—is the absolute antithesis of valuing and supporting the environment and making that environment available for people to enjoy. I urge all members of this Chamber to think carefully before they vote on this legislation. They need to understand what is at stake, not just for their reputations but also for the future of this State and the environment of this continent. I implore members to vote against this legislation.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [9.45 p.m.], in reply: More than ever, the Government is committed to conserving national parks and reserves for future generations and, equally, to making our parks more accessible in ways that are relevant to visitors' interests. The facts speak for themselves. Over the past decade and a half this Labor Government has been instrumental in greatly improving and expanding the national parks system, taking it from four million hectares in 1995 to more than 6.7 million hectares at present, which equates to an 8.42 per cent coverage of New South Wales. With careful planning and management by the experts in the National Parks and Wildlife Service, these special places can be available for public appreciation and enjoyment. And that is exactly what the Government is delivering.

My colleague the Minister for Climate Change and the Environment has brought forward the National Parks and Wildlife Amendment (Visitors and Tourists) Bill 2010, recently finalised through close collaboration with conservation groups and those interested in growing opportunities for visitors and tourists in New South Wales national parks and reserves. The bill seeks to strike the right balance between conservation and connecting people with nature. It does this by providing clarity about the purposes for which leases and licences can be granted in parks and by strengthening environmental standards for those leases and licences. This bill also provides significant transparency measures through more opportunities for members of the public to have a say in what happens in their parks.

In his comments Mr Ian Cohen referred to legal advice provided by Tim Robertson, SC. Earlier in this debate I tabled legal advice from Bret Walker, SC, which was responding to Mr Robertson's advice. The Minister sought further legal advice from the legal branch of the Department of Environment, Climate Change and Water, Bret Walker, SC, and Parliamentary Counsel, Don Colaguri, SC. All of this advice makes it clear that this bill provides for stronger conservation outcomes than the existing Act. I seek leave to table the further advice, which has already been tabled in the lower House.

**Leave granted.**

**Documents tabled.**

It seems that some people in the broader environment movement have sought opportunistically to address other ills they perceive to exist in the current National Parks and Wildlife Act. Tonight the Greens have proposed a long list of amendments—I think 16 in total. These amendments will achieve nothing and add little to the improved environmental protection measures offered by this bill. It is clear that the amendments were prepared with little thought and have no substance. I will address each of the amendments proposed by the Greens in Committee. I thank all members for their contributions to this debate. This debate has highlighted the broad range of views and beliefs held by those of us who are fortunate enough to sit in this Chamber. The debate also highlights the fact that we do not always agree on matters because of those views and beliefs. I thank members for the way in which they have conducted themselves in this debate. I commend the bill to the House.

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

**The House divided.**

**Ayes, 22**

Mr Ajaka	Ms Griffin	Mr Veitch
Mr Catanzariti	Mr Khan	Ms Voltz
Mr Clarke	Mr Mason-Cox	Mr West
Mr Colless	Mr Moselmane	Ms Westwood
Ms Cusack	Reverend Nile	
Mr Della Bosca	Ms Parker	<i>Tellers,</i>
Ms Ficarra	Ms Robertson	Mr Donnelly
Miss Gardiner	Ms Sharpe	Mr Harwin

**Noes, 4**

Ms Hale  
Dr Kaye  
*Tellers,*  
Mr Cohen  
Ms Rhiannon

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

**In Committee**

**Clauses 1 and 2 agreed to.**

**Mr IAN COHEN** [9.57 p.m.], by leave: I move Greens amendments Nos 1, 4 and 5 in globo:

No. 1 Page 3, schedule 1 [1], lines 5–7. Omit all words on those lines. Insert instead:

*sustainable*, in relation to visitor or tourist use and enjoyment of land, means ecologically sustainable.

No. 4 Page 6, schedule 1 [17], proposed section 151A (1) (a) (iv), lines 37 and 38. Omit all words on those lines.

No. 5 Page 7, schedule 1 [17], proposed section 151A (1) (b) (iii), lines 25 and 26. Omit all words on those lines. Insert instead:

(iii) the provision of the following facilities or amenities for visitors and tourists:

Amendment No. 1 clarifies the definition of "sustainable". In this day and age people tend to throw around the word "sustainable" with blatant disregard for what it actually means. It is so over-used that we have diluted its meaning. The word "sustainable" is used in several places throughout the National Parks and Wildlife Act. In the bill the word "sustainable" is defined and mainly used in the context of "sustainable visitor and tourist usage and enjoyment". In this context there is a definition provided in the bill that defines it as sustainable within the meaning of ecologically sustainable development defined in the Protection of the Environment Administration Act. However, this definition still leaves some ambiguity in the context of National Parks.

The definition as it stands implies through the reference to ecologically sustainable development that there is a balancing of environmental and economic considerations. In the context of our reserve system we need to remember that the primary objective is to maintain a comprehensive, adequate and representative network of protected areas. We should be focussed primarily on preserving ecological composition, structure and function of our protected areas. Protected areas are not meant to be subject to the same development pressures for commercial development as land is outside our reserve estate. Ecologically sustainable development does have a place in the Act. However, for the definition of "sustainable tourist use" we must focus on the capacity of ecological systems and ensuring we prevent any net loss in ecological function and biodiversity. This is consistent with the objects of the Act in preserving the natural and cultural values of a national park. Greens amendment No. 1 guarantees that the meaning is clear. Wherever "sustainable" is used in the Act it can only mean ecologically sustainable.

Greens amendment No. 4 ensures that there shall be no exclusive leases for sporting activities and facilities. At present the only sporting activities that can be permitted are licences under the adaptive reuse provisions. These were tightly constrained; they had to be specified in a plan of management and were limited to three days maximum. Under the bill it is proposed to allow licences and leases for sporting purposes. These can be issued for sporting activities and facilities. This is a massive expansion to the types of structures that can be built in a national park. There are a few constraints provided in the bill. Recreational facilities and other facilities are already permitted under leasing arrangements. Large-scale sporting facilities and events such as the Repco Rally have no place in our national parks. The amendment provides for this.

Greens amendment No. 5 ensures that the only visitor amenities permitted in national parks are the ones listed in section 151A (1) (b) (iii). This still allows leases and licences for visitor facilities, such as for information centres, booking outlets, restaurants, cafes, kiosks and other food outlets. The amendment simply constricts visitor facilities to the ones listed in the Act and prevents an unnecessary expansion of possible activities through a liberal interpretation of the provision. I commend Greens amendments Nos 1, 4 and 5 to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.01 p.m.]: The Government does not support Greens amendment No. 1. The omission of the part of the definition that relates to the principles of ecologically sustainable development would create confusion, as "ecologically sustainable" is not defined in the Act in any other way. Instead, the bill uses the concept of ecologically sustainable development. This has a universally accepted definition and is included within major environmental legislation in New South Wales. This definition makes it clear that the precautionary principle, intergenerational equity, the conservation of biological diversity and ecological integrity are important considerations.

The Government does not support Greens amendment No. 4. In his agreement in principle speech the Minister in the other place clarified that only low-impact sporting activities, such as the very popular annual Oxfam Trailwalker, the Wilderness Society's Wild Endurance and the Anaconda Adventure Race are appropriate for national parks. These events, which involve healthy outdoor recreation, such as swimming and kayaking, are the types of activities communities would want us to support. The amendments would prevent those activities from occurring in the future. The bill will allow opportunities for these activities to continue while clearly ruling out the development of inappropriate sporting facilities such as stadiums.

The Government does not support Greens amendment No. 5. This amendment would make the purposes for a lease or licence for visitor or tourist facilities and amenities unnecessarily limited to those listed in the bill. This would prevent other minor ancillary facilities or amenities not prescribed in the bill to be excluded, despite their potential to improve the visitor experience and regardless of environmental impact. This has no environmental benefit at all. The Government has already made considerable refinements to the bill to accommodate concerns relating to the purposes for which leases and licences may be granted as proposed in proposed section 151A. It is timely to remind members in the Chamber that the bill contains new sustainability provisions that provide improved protection over the existing Act.

**Question—That Greens amendments Nos 1, 4 and 5 be agreed to—put and resolved in the negative.**

**Greens amendments Nos 1, 4 and 5 negatived.**

**Mr IAN COHEN** [10.04 p.m.], by leave: I move Greens amendments Nos 2 and 8 in globo:

No. 2 Page 4, schedule 1 [11], lines 14 and 15. Omit all words on those lines. Insert instead:

**[11] Section 72AA (5A)**

Omit the subsection. Insert instead:

- (5A) A plan of management must include environmental performance standards and indicators for the purposes of section 151D that ensure the environmental values of the land concerned are conserved or restored.

No. 8 Page 10, schedule 1 [17], proposed section 151D (1), lines 9–13. Omit all words on those lines. Insert instead:

**151D Environmental performance standards for leases and licences**

- (1) The Minister is to include in every lease or licence of land within a reserve granted under section 151 a condition requiring:

Greens amendments Nos 2 and 8 extend the lease performance management and environmental performance indicator system that currently applies to karst conservation areas to all reserves. Environmental performance indicators in reserve plans of management and inclusion of these provisions in leases will enhance overall management of leases across the reserve system. Under the existing Act, in section 75AA (5A), karst conservation area leases must contain environmental performance standards and indicators. This applies to areas like the world heritage Jenolan Caves karst conservation area. The standards and indicators are spelled out in a plan of management in advance, and thus subject to full public consultation. Greens amendment No. 2 amends this section in the Act and expands this requirement to all plans of management.

Greens amendment No. 8 expands the scope of proposed section 151D that requires environmental performance standards to be complied with in leases and makes the director general report on performance standard compliance. Once the lease is in operation, the lessee is required to report annually on their performance against the standards and indicators. These reports are made publicly available. This is a sensible performance system that should be applied to all National Parks and Wildlife Service managed reserves. These amendments extend the existing provisions for karst conservation areas under section 151D to apply to all National Parks and Wildlife Service reserves consistent with Greens amendment No. 2, which provides for performance indicators in all plans of management. I commend Green amendments Nos 2 and 8 to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.06 p.m.]: The Government does not support Greens amendments Nos 2 and 8. Environmental performance standards and indicators that are particular to karst environments cannot be applied to other reserve categories, as plans of management do not contain environmental performance indicators. Karst conservation reserves are highly sensitive environments susceptible to human impacts and must be managed accordingly. For example, karst environments are particularly susceptible to changes in atmospheric conditions, such as temperature and humidity levels, which can result from large groups of people visiting a particular karst area at any one time. The rigorous environmental performance standards and indicators in place for karst conservation reserves are designed to manage such impacts.

In addition, such standards and indicators are not required across all reserve categories, as environmental monitoring mechanisms are already provided for in individual leases in parks. Commercial lessees are statutorily and contractually bound to comply with all relevant legislation and the specific environmental clauses contained in their leases. Also, where necessary, the department can incorporate a requirement for an environmental management plan or an environmental management system into new leases. This enables more effective environmental monitoring of lease activity on a case-by-case basis without creating a massive and needless workload. In addition, the Department of Environment, Climate Change and Water conducts compliance audits of its major or environmentally sensitive leases, which include lessee compliance with lease environmental and conservation conditions—for example, the current audit of Q Station.

**Question—That Greens amendments Nos 2 and 8 be agreed to—put and resolved in the negative.**

**Greens amendments Nos 2 and 8 negatived.**

**Mr IAN COHEN** [10.08 p.m.], by leave: I move Greens amendments Nos 3 and 12 in globo:

No. 3 Page 5, schedule 1 [17], proposed section 150A. Insert after line 26:

- (2) In this Part, a reference to the grant of a lease or licence includes a reference to the renewal of a lease or licence.

No. 12 Page 13, schedule 1 [17], proposed section 151G (1) (a), line 12. Insert "(including a copy of any draft of the lease or licence)" after "151".

Greens amendments Nos 3 and 12 are small amendments that clarify the consultation process. Amendment No. 3 makes it clear in the definitions section of division 1 that the leasing system applies to lease renewals except in circumstances outlined in proposed section 151B (5). Amendment No. 12 ensures that the advisory council is provided with a copy of the draft lease when the lease is referred to the council for consideration. The bill refers some types of leases to the National Parks and Wildlife Advisory Council for its comment. It is unclear whether the council will be provided with the draft lease. I cannot imagine how the council can provide informed comments to the Minister if the draft lease is not provided to it. This allows the council to give advice on the suitability of the lease terms and conditions. The council routinely deals with confidential matters and, if there are some aspects of the lease that are confidential, the council is able to handle this information confidentially. This is a sensible amendment that will greatly improve the value of feedback from the council, and I commend Greens amendments Nos 3 and 12 to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.09 p.m.]: The Government does not support Greens amendment No. 3 as it is simply unnecessary. From a legal perspective the grant of a lease includes the renewal of a lease already without needing to expressly refer to it. Therefore, the proposed amendment would be redundant. The Government does not support Greens amendment No. 12 either as it would have the effect of paralysing the National Parks and Wildlife Service through excessive bureaucratic process. The bill already has significant provisions to ensure public participation in this process relating to the leasing and licensing of visitor facilities and services.

The Government has already produced, in the words of Bret Walker, SC, significant checks and balances in relation to public accountability and transparency measures, specifically proposed section 151G. Leasing and licensing proposals involving the erection of new buildings or significant modifications to existing buildings must be referred to the advisory council, as must all head leases and leases for more than 10 years. In such cases it is the Government's intention that draft leases will be referred to the advisory council apart from any commercial-in-confidence information.

**Question—That Greens amendments Nos 3 and 12 be agreed to—put and resolved in the negative.**

**Greens amendments Nos 3 and 12 negatived.**

**The Hon. CATHERINE CUSACK** [10.11 p.m.]: I move Liberal Party amendment No. 1:

No. 1 Page 8, schedule 1 [17], proposed section 151A. Insert after line 23:

- (6) The Minister must not grant under section 151 a lease or licence of land within a world heritage property for any purpose referred to in subsection (1) (b).

This subsection does not apply to a renewal of a lease or licence that was in force on 8 June 2010, but only if the renewed lease or licence is on substantially the same terms and conditions as the lease or licence to be renewed.

This amendment seeks to exclude World Heritage listed parks from the provisions of proposed section 151A (1) (b). The 1972 United Nations Convention Concerning the Protection of World Cultural and Natural Heritage is founded on the idea that certain places are of outstanding universal value and as such should form part of the common heritage of humankind. World Heritage sites belong to the world. They have been selected for the World Heritage List after careful assessment as to whether or not they represent first-rate examples of cultural or natural or mixed cultural and natural heritage.

Of the 890 properties on the World Heritage List only 176 are natural, compared with 689 cultural. There are five World Heritage sites in New South Wales, four of which include parks and reserves managed by the National Parks and Wildlife Service. These parks are mainly located in the Great Dividing Range and are astonishing, ancient steep mountains featuring majestic forests that almost literally cascade from the tablelands down to the coast. The Liberal-Nationals amendment will protect these areas and any future World Heritage sites in New South Wales from new activities that would be a threat to their unique natural and cultural heritage.



The aim of this amendment is principally to prevent the construction of new buildings in World Heritage areas. This includes tourist or visitor accommodation, a retail centre or a function centre. It is not the intention of the amendment to prevent low-impact recreational activities such as hiking or canoeing, nor is it intended to create any impediments to firefighting or park management.

**Mr IAN COHEN** [10.13 p.m.]: The Greens support the Liberal Party's amendment. It is in line with my unsuccessful struggles to gain greater protection across the board. The Hon. Catherine Cusack is referring in this amendment to some of our most important globally renowned iconic areas that are represented on the World Heritage List and are acknowledged to be of great importance. I thank the Opposition for attempting to provide a greater degree of protection that those very sensitive and extremely important and iconic areas well and truly deserve.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.14 p.m.]: The Government does not support Opposition amendment No. 1. There are three World Heritage areas in New South Wales that are largely managed under the National Parks and Wildlife Act—the Greater Blue Mountains west of Sydney, the Gondwana Rainforests of Australia, stretching from the mid North Coast to the Northern Tablelands and Rivers region, and the Willandra Lakes region in far western New South Wales.

**The Hon. Catherine Cusack:** And Lord Howe Island.

**The Hon. MICHAEL VEITCH:** And Lord Howe Island. In total, 37 national parks form part of those World Heritage areas. Declared wilderness covers the majority of national parks and other reserves in these World Heritage areas. This means that accommodation or other built facilities are not permitted in these special places. For the Greater Blue Mountains, 64 per cent of parks are declared wilderness and for the Gondwana Rainforests 78 per cent of park is declared wilderness. Many of the reserves within World Heritage areas are Aboriginal lands. Local Aboriginal communities such as the Githabul, whose traditional lands are part of the Gondwana Rainforests reserves World Heritage area in northern New South Wales, and those living within the Willandra Lakes World Heritage area around Mungo National Park would be disadvantaged if these amendments did not include these areas.

To propose that the parts of these World Heritage areas that are not declared wilderness be off limits for many visitors by not allowing accommodation or visitor facilities is unnecessary. One of the primary purposes of World Heritage areas is to build awareness of the outstanding World Heritage values of the area. It would be inconsistent with global practice to exclude access from these important World Heritage sites, which are themselves a significant drawcard for tourists. Surely New South Wales is not about to put up a closed sign on our World Heritage areas.

**Question—That Opposition amendment No. 1 be agreed to—put.**

**The Committee divided.**

**Ayes, 18**

Mr Ajaka	Mr Gay	Mr Pearce
Mr Clarke	Ms Hale	Ms Rhiannon
Mr Cohen	Dr Kaye	
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

**Noes, 19**

Mr Brown	Reverend Nile	Mr Veitch
Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Primrose	Ms Westwood
Ms Fazio	Mr Robertson	
Mr Hatzistergos	Ms Robertson	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Moselmane	Mr Smith	Ms Voltz

**Pair**

Mr Lynn

Mr Roozendaal

**Question resolved in the negative.**

**Opposition amendment No. 1 negatived.**

**Mr IAN COHEN** [10.22 p.m.], by leave: I move Greens amendments Nos 6 and 7 in globo:

No. 6 Page 8, schedule 1 [17], proposed section 151B (1), line 28. Omit "the Minister is satisfied that".

No. 7 Page 9, schedule 1 [17], proposed section 151B (2), lines 3–5. Omit all words on those lines. Insert instead:

(2) In determining the matters referred to in subsection (1), regard is to be had to:

Greens amendments Nos 6 and 7 seek to amend the matters the Minister must consider before granting a lease or licence under proposed section 151. Proposed section 151B currently prevents the Minister from granting a lease or licence unless the Minister is satisfied of certain preconditions such as compatibility with natural and cultural values, sustainable and efficient use of natural resources, and appropriate development footprints. Proposed section 151B further states that in the Minister's deliberation of a lease or licence the Minister is to have regard to sustainability criteria adopted by the director general. Greens amendments Nos 6 and 7 will remove the subjective standard in evaluating the granting of a lease or licence.

The question should be one of objective reasonableness, not whether a particular Minister is subjectively satisfied. Considering that we are talking about developments in national parks and removing judicial review on this particular ministerial decision, this is not appropriate. Granting a lease in a national park is a considerable power. The courts should be able to intervene to assess whether leases are compatible with the natural and cultural values of our national parks. This is a decision that should not be taken lightly. I commend Greens amendments Nos 6 and 7 to the Committee.

**The Hon. CATHERINE CUSACK** [10.24 p.m.]: Earlier I referred to the consent process but I do not follow how such consent will be given. This issue arises in relation to Greens amendments Nos 6 and 7. We are dealing with the Minister's absolute discretion regarding leases. Effectively, is that the big step in the whole process that ultimately culminates in consent being given for the project? The comments Mr Ian Cohen made earlier suggest that there is enormous power in one person, which is definitely a matter of concern for the Opposition.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.25 p.m.]: The Government does not support Greens amendments Nos 6 and 7 as they would change proposed section 151B from dealing with matters about which the Minister must be satisfied to dealing with objective criteria to be interpreted, ultimately, by a court. These amendments are inappropriate because the matters in section 151B are matters that, by their very nature, are best assessed by the National Parks and Wildlife Service and by the Minister, and because there are already a number of objective standards that the Minister must meet. It should also be remembered that the matters in section 151B are brand new safeguards that have never existed in the Act.

Under proposed section 151 (3), in determining whether to grant a lease or licence of land under this section, the Minister is to give effect to the objects of this Act which include the management principles for each type of reserve. Under section 2A of the Act the Minister is also required to give effect to the public interest in the protection of the values for which land is reserved under this Act and the appropriate management of these lands. The sustainability assessment criteria are an additional measure introduced as part of the proposals in the bill over and above existing environmental planning processes.

The assessment criteria do not override requirements under the New South Wales Environmental Planning and Assessment Act 1979 or the Federal Environment Protection and Biodiversity Conservation Act. If major on-park developments are proposed they may require an environmental impact statement under the Environmental Planning and Assessment Act, in which case the proposal becomes a part 3A project under the Environmental Planning and Assessment Act and the Minister for Planning becomes the approval authority.

**The Hon. CATHERINE CUSACK** [10.27 p.m.]: In general, the approving authority will be the Minister for Planning, is that correct?

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.27 p.m.]: Yes, that is what it states.

**Question—That Greens amendments Nos 6 and 7 be agreed to—put.**

**The Committee divided.**

**Ayes, 18**

Mr Ajaka	Mr Gay	Mr Pearce
Mr Clarke	Ms Hale	Ms Rhiannon
Mr Cohen	Dr Kaye	
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

**Noes, 19**

Mr Brown	Reverend Nile	Mr Veitch
Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Primrose	Ms Westwood
Ms Fazio	Mr Robertson	
Mr Hatzistergos	Ms Robertson	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Moselmane	Mr Smith	Ms Voltz

**Pair**

Mr Lynn

Mr Roozendaal

**Question resolved in the negative.**

**Greens amendments Nos 6 and 7 negatived.**

**Mr IAN COHEN** [10.34 p.m.]: I move Greens amendment No. 9:

Page 11, schedule 1 [17], proposed section 151F (1), line 31. Omit "concerned." Insert instead:

concerned, and

- (c) in a newspaper circulating throughout New South Wales, in a newspaper circulating in the area in which the land is located and on the Department's website if the proposal is for a renewal of a lease or licence, but not if the proposal is for the renewal of a lease or licence:
  - (i) to be granted in accordance with an option to renew a current lease or licence, or
  - (ii) to be granted otherwise than in accordance with an option to renew a current lease or licence and the renewed lease or licence:
    - (A) is to be on substantially the same terms and conditions as the current lease or licence, and
    - (B) is to have a term that does not exceed 10 years (including any options to renew).

This amendment attempts to rectify the lack of public consultation on lease renewals. As a mechanism for public feedback it is important to comment on lessee performance when a lease comes up for renewal. It is essential for meaningful public participation in managing and protecting our national parks. The wording of the amendment borrows the wording from proposed section 151B (5) and attempts to harmonise ministerial review at public consultation processes. The Greens would have preferred consultation on all lease renewals; however, this compromised position will go some way to address the need for public consultation on leasing renewals. I commend Greens amendment No. 9.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.35 p.m.]: The Government does not support Greens amendment No. 9. Under proposed section 151F the Minister must advertise proposed leases

and licences that are for a new purpose, or authorise any building or structure or significant modification to an existing building. This amendment would expand the requirements of the bill to most lease renewals and require them to be advertised in a newspaper circulating throughout New South Wales for a period of 28 days. This expansion of the requirement to publicly advertise most renewals in a statewide newspaper for that period, even without a new infrastructure and no change in the purpose, will be unduly bureaucratic. Lease renewals for a term exceeding 10 years will be referred to council, which provides for a more efficient process than requiring any lease renewal to be advertised statewide.

**Question—That Greens amendment No. 9 be agreed to—put and resolved in the negative.**

**Greens amendment No. 9 negatived.**

**Mr IAN COHEN** [10.36 p.m.], by leave: I move Greens amendments Nos 10 and 11 in globo:

No. 10 Page 12, schedule 1 [17], proposed section 151F (2) (e), lines 2–8. Omit all words on those lines. Insert instead:

being a date not earlier than 28 days after the date on which the notice was first published,

No. 11 Page 12, schedule 1 [17], proposed section 151F (3), lines 12–15. Omit all words on those lines. Insert instead.

- (3) The Minister, on request, is to provide such further information describing the proposed lease or licence (including any proposed conditions for the proposed lease or licence) as may be necessary to enable a person to understand the proposal.

These amendments make some slight changes to the public consultation process in relation to leases and licences. The amendments simply give people wanting to make submissions on leases and licences in reserve areas more time to ensure they have adequate information about the proposed lease. The amendments can only enhance the value in consultation and provide a process that allows proponents in the parks service to obtain more relevant and insightful submissions. The bill contains differing time frames for public consultation, depending on the activity covered by the lease or licence proposal. The amendment provides consistency by applying a 28-day consultation period on all proposal types. This simply is an increase of 14 days for certain leases. Fourteen days is too short for any real form of consultation. Greens amendment No. 10 makes all lease consultations for 28 days and ensures a greater level of consistency.

Greens amendment No. 11 seeks to clarify the type of information an interested person may seek about a proposed lease or licence that is open for consultation. The Greens believe it is particularly important to outline any potential conditions that may be placed on the lease or licence. It is hoped that this will give people a better understanding of the proposal and enhance their ability to participate in the public consultation process. The Greens amendment removes the commercial-in-confidence provision of the bill. However, it requires the Minister only to provide information requested necessary for a person to establish an understanding of the proposal. These are relatively straightforward amendments that will improve the public consultation process in the bill. I believe any fair member not bound by some sort of party control would acknowledge that these are two simple and worthwhile amendments. I commend both amendments to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.39 p.m.]: The Government does not support Greens amendment Nos 10 and 11 for the reasons previously articulated during debate.

**Question—That Greens amendment Nos 10 and 11 be agreed to—put and resolved in the negative.**

**Greens amendments Nos 10 and 11 negatived.**

**Mr IAN COHEN** [10.39 p.m.], by leave: I move Greens amendment Nos 13 to 15 in globo:

No. 13 Page 14, schedule 1 [22], lines 12 and 13. Omit all words on those lines.

No. 14 Page 14, schedule 1 [24], lines 16 and 17. Omit all words on those lines.

No. 15 Page 18, schedule 1 [27], lines 1–19. Omit all words on those lines.

These amendments restate the ban on commercial activity in wilderness areas, which are places that are free from development. They must also remain places that are free from the pressure of commercial trade. There are

plenty of places in which commercial activities can be carried out in national parks without having to visit wilderness areas. These amendments maintain the prohibition on commercial activities in wilderness areas that has been in place since the Wilderness Act was passed in 1987.

The commercial use of wilderness provisions in the bill are said to apply only to commercial backpack outfitters and the like, but the bill will not operate that way because there will be a cross-fertilisation between the various development opportunities provided by the bill. Such opportunities will be exploited to the fullest extent possible. Wilderness areas are remote places and, as such, are very costly for commercial operators to access without the use of vehicles or helicopters and bases from which to support their operations. Vehicular access will follow once commercial wilderness access is granted, and the whole idea of wilderness could disappear.

Park managers would think an environmentalist plumb crazy to suggest they leave their four-wheel-drive vehicles behind at the wilderness gate. It may not be too long before commercial outfitters, such as rangers, are hotfooting it around the wilderness in four-wheel-drive vehicles and helicopters. There goes the wilderness idea, as a space for nature, free from the trappings of modern technology. Green Gully is a 40,000 hectare wilderness near Walcha that was publicly acquired following a fundraising campaign. Green Gully is the largest acquisition purchased to honour the memory of Milo Dunphy. The new tourism mandarins in the environment department's executive proposed helicopter tours to accommodation facilities on blocks of land that were proposed to be excised from the Green Gully wilderness. The scheme would have permitted elite commercial tourism to fly in and out, in direct conflict with the wilderness management of the area.

The yet to be protected wilderness is the stronghold of the endangered brush-tailed rock wallaby. Not only did the proposal insult the memory of Milo Dunphy and the donors who still wish to see the wilderness protected, but also the noisy, gas-guzzling helicopters would have disrupted the behaviour of the wallabies in their core habitat. The tourism mandarins dropped this proposal only when they realised that this development scheme was to be featured prominently in a newspaper with statewide circulation. That would have upset their plans for introducing tourism development legislation. I suspect the Green Gully development plan might come back, as we can no longer trust the Department of the Environment, Climate Change and Water with the management of national parks or wilderness areas.

Lisa Corbyn, who is the Director General of the Department of Environment, Climate Change and Water, wrote to the *Sydney Morning Herald* on 8 December 1993 expressing concern about helicopter joy flights over the Blue Mountains National Park. At that time she stated that the Blue Mountains "is one of the few places where tourists and residents can find the peace and tranquillity that provide the antidote of our hectic modern lifestyles". Since then the park management has lost its way and supports development before wilderness protection.

I harbour no expectations of the Committee's decision at this point in time, but the arguments I have presented are reasonable and may brush the consciousness of even members of the Shooters Party. Surely they acknowledge that there should be some areas over which heavy vehicles and helicopters do not pass. All sorts of adventurers and activists who like to traverse pristine environments might appreciate such a sanctuary that is worth retreating to at certain times. I commend the amendments to the Committee.

**The Hon. ROBERT BROWN** [10.44 p.m.]: Mr Ian Cohen has been baiting me all night, so I must respond. It is not the helicopters that worry the rock wallabies; the foxes, dogs and goats push them out of their hiding places. That is what worries brush-tailed rock wallabies. For many years I had a shareholding in a wilderness property in Queensland from which, in concert with the National Parks and Wildlife Service, I cleaned out all the goats from gorge areas. It is one of the outstanding success stories in the rehabilitation of brush-tailed rock wallaby habitats.

In New Zealand, in some of the most pristine wilderness areas in the world on the west coast around Havelock and other nearby regions, parties of hunters in helicopters are regularly called in to clean house. I think the brush-tailed rock wallabies would prefer a few helicopter loads full of hunters to foxes, dogs and goats. I agree that people should not be running around a pristine wilderness area in four-wheel-drive vehicles because that just messes up the place. Unfortunately, though, the Shooters Party cannot support the amendment.

**Mr Ian Cohen:** On principle?

**The Hon. ROBERT BROWN:** On principle.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.45 p.m.]: The Government does not support the amendments because they do not facilitate equity of access to our parks, nor do they promote the safety of our visitors.

**Question—That Greens amendment Nos 13 to 15 be agreed to—put and resolved in the negative.**

**Greens amendment Nos 13 to 15 negatived.**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [10.45 p.m.]: I move Government amendment No. 1:

No. 1 Page 18, schedule 1 [27]. Insert after line 19:

(3) This clause ceases to have effect 5 years after the date on which it commences.

The Government is pleased to support an amendment that has been requested by peak conservation groups in New South Wales. It provides a sunset clause in relation to schedule 3 to the Act, and imposes a five-year limit on this provision. This means that licences granted in wilderness areas for commercial activities, where the plan of management currently prohibits such activities being carried out on a commercial basis, cannot be extended beyond five years without an amendment to the relevant plan of management.

Wilderness areas represent the largest and most pristine areas in the State's network of parks and reserves and, as such, are an essential component of a comprehensive, adequate and representative reserve system in New South Wales. Experts say that wilderness will become increasingly important to ameliorating the impacts of climate change on biodiversity. The Wilderness Act 1987 affords declared wilderness areas the most secure form of protection and ensures it is managed in a way that will maintain its wilderness values. A declaration not only acknowledges the conservation significance of these areas; it also acknowledges their aesthetic and spiritual significance. These are the last of our wild, untamed places.

More than two million hectares of New South Wales is declared wilderness within national parks and reserves. This represents roughly 2.5 per cent of the State and currently constitutes approximately 30 per cent of our total reserve system. Wilderness areas provide unique self-reliant recreational opportunities, such as long-distance walking and canoeing, but exclude high impact activities, such as recreational use of motor vehicles and horse riding. The amendments relating to commercial activity in wilderness areas seek to allow, quite simply, exactly the same activities to be led by paid guides. There are no other changes proposed. This is not about new huts or cabins, or even eco-lodges in wilderness areas. This is about development in wilderness areas.

The Government is trying to facilitate a much greater equity of access to the more remote areas of the reserve system while at the same time ensuring a much higher level of safety for visitors. Prospective guides and operators will be licensed under the department's Parks Ecology Pass commercial tour operator licence scheme, which will provide a robust system of ensuring that operators, among other things, are qualified in first aid, maintain equipment suitable to the activity and location, achieve an appropriate standard of environmental accreditation, and maintain high operating standards for visitors. The Parks Ecology Pass also allows the department to carefully monitor and manage these activities, ensuring that the highest protection is afforded to these special places.

**Question—That Government amendment No. 1 be agreed to—put and resolved in the affirmative.**

**Government amendment No. 1 agreed to.**

**Schedule 1 as amended agreed to.**

**Schedule 2 agreed to.**

**Title agreed to.**

**Bill reported from Committee with an 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 with a message requesting its concurrence in the amendment.**

**RESIDENTIAL TENANCIES BILL 2010****HEALTH LEGISLATION AMENDMENT BILL 2010****ELECTRICITY AND GAS SUPPLY LEGISLATION AMENDMENT (RETAIL PRICE DISCLOSURES AND COMPARISONS) BILL 2010****BANANA INDUSTRY REPEAL BILL 2010****Bills received from the Legislative Assembly.****Leave granted for procedural matters to be dealt with on one motion without formality.****Motion by the Hon. Penny Sharpe agreed to:**

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

**Bills read a first time and ordered to be printed.****Second readings set down as orders of the day for a later hour.****COMMERCIAL ARBITRATION BILL 2010****In Committee**

**The CHAIR (The Hon. Kayee Griffin):** Order! With the leave of the Committee I propose to deal with the bill by parts. There being no objection, I shall proceed accordingly.

**Part 1A [Clauses 1A to 1C] agreed to.**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [10.56 p.m.], by leave: I move Government amendments Nos 1 to 3 in globo:

No. 1 Page 3, clause 1 (2), line 7. Insert "8," after "sections".

No. 2 Page 18, clause 17I (1) (a) (iii), line 11. Insert "of the State or Territory" after "court".

No. 3 Page 21, clause 20 (3), line 2. Insert "(whether or not in New South Wales)" after "place".

The Government is proposing three minor amendments to the bill that will provide clarification on the application of the Act, ensure flexibility for arbitral tribunals and ensure that the bill accurately reflects the United Nations model law on which it is based. Clause 1 of the bill deals with the scope of application of the Act. Clause 1 (2) provides that the Act, apart from a few specified provisions, only applies if the place of

arbitration is in New South Wales. The specified provisions that apply, whether or not the place of arbitration is in New South Wales, relate to the provision of interim orders and the recognition and enforcement of interim orders and final awards.

The first amendment will include clause 8 of the bill in the list of specified provisions to ensure that it applies whether or not the place of arbitration is in New South Wales. Clause 8 relates to stays on court proceedings if there is a valid arbitration agreement relating to the matter. If there is a valid arbitration agreement in place between parties that relates to a matter that is then the subject of an action brought before a court, the court must refer the parties to arbitration. This amendment will mean that the provision applies whether an arbitration takes place in New South Wales or not, and will ensure that the bill reflects the spirit of the United Nations Commission on Industrial Trade Law's model law on which it is based.

The second amendment relates to clause 17I, which sets out the grounds for recognition or enforcement of interim awards. The amendment clarifies that one of the grounds on which an interim award may be recognised or enforced is where the court in the State or Territory in which the arbitration takes place terminates or suspends the interim measure. The insertion of the words "of the State or Territory" in clause 17I (1) (a) (iii) is necessary to clarify the meaning of the provision. The third amendment aims to ensure that there is no uncertainty about the application of the Act and to clarify that an arbitral tribunal may, unless otherwise agreed by the parties, meet at any place that it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Clause 20 (3) aims to provide flexibility for an arbitral tribunal to meet at any place it considers convenient. This third amendment is necessary to ensure that arbitral tribunals are not unduly limited. The insertion of the words "whether in New South Wales or elsewhere" in clause 20 (3) clarifies that the arbitral tribunal is able to meet anywhere, including outside the State, if convenient for consultation, hearings or inspection of anything relevant to the proceedings.

**The Hon. DAVID CLARKE** [11.00 p.m.]: The Opposition does not oppose these amendments.

**Question—That Government amendments Nos 1 to 3 be agreed to—put and resolved in the affirmative.**

**Government amendments Nos 1 to 3 agreed.**

**Part 1 [Clauses 1 to 6] agreed to**

**Parts 2 to 4A [Clauses 7 to 17J] agreed to.**

**The Hon. DAVID CLARKE** [11.00 a.m.]: I move Opposition amendment No.1:

No. 1 Page 28, proposed section 27D (4), line 16. Insert "given on or after the termination of the mediation proceedings" after "arbitration".

The Opposition has deep concerns about proposed section 27D, which deals with the power of an arbitrator to act as a mediator, conciliator or other non-arbitral intermediary. In particular, the Opposition is concerned with the ambiguity of proposed section 27D (4), which provides that:

An arbitrator who has acted as mediator in mediation proceedings that are terminated may not conduct subsequent arbitrations proceedings in relation to the dispute without the written consent of all the parties to the arbitration.

The Opposition is concerned that the term "consent" contained in the subsection is too vague. Whilst we believe it is meant to apply to a subsequent consent, it could be equally interpreted to refer to prior consent also. If the subsection was construed to allow prior consent, parties could unwillingly find themselves locked into an agreement from which they might not be able to withdraw. The Opposition's amendment to proposed section 27D (4) clarifies and confirms that the consent referred to is indeed subsequent consent.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.01 p.m.]: The Government does not oppose this amendment. The Government is not convinced that it is necessary but it does clarify that consent to the practitioner proceeding must come on or after termination of the mediation. The Government is happy to support the amendment.



**Question—That Opposition amendment No. 1 be agreed to—put and resolved in the affirmative.**

**Opposition amendment No. 1 agreed to.**

**The Hon. DAVID CLARKE** [11.02 p.m.]: I move Opposition amendment No. 2:

No. 2 Page 28, proposed section 27D (7), lines 24-30. Omit all words on those lines.

Opposition amendment No. 2 will delete subsection (7) of proposed section 27D because as it is presently drafted it appears to mandate an arbitrator to reveal confidential information disclosed during the mediation to "all other parties to the arbitration proceedings". Matters raised in mediation should remain confidential, and indeed no transcript is kept of the mediation. It is this confidentiality of information arising during the mediation that assists the process of mediation achieving its purpose. Under proposed section 27D (7) situations may well occur of a party being aggrieved that a mediator has revealed confidential material arising from a mediation that has weakened or even destroyed its case in a subsequent arbitration. Issues may arise as to whether the mediator was justified in disclosing matters from the mediation, and whether procedural fairness has been accorded to the parties.

Another concern arising from proposed section 27D (7) is the issue of what information is to be considered as "material" under the section. Does the arbitrator need to disclose such material before or after the issue of consent? Clearly parties to a failed mediation would not want confidential information about the strengths or weaknesses of their case to be disclosed to the other party before an arbitration hearing and in open court before their opponent. The Opposition's response to the Government's argument that if this is not done, appeals will arise where an arbitrator has decided a case on relevant material disclosed in mediation, but not disclosed in the subsequent arbitration, is that this situation arises now in court where rejected evidence or evidence on voir dire is rejected and put out of the mind of the presiding judicial officer. Matters can only be decided on admissible evidence presented in the trial, and that applies as well to an arbitration.

Only a few days ago the *Australian Financial Review* under the headline "Arbitrators condemn NSW Bill" the President of the Chartered Institute of Arbitrators, Derek Minus, complained about the effect of proposed section 27D (7), which he said, "provides that any material from a mediation that takes place during an arbitration process can be revealed if the arbitration continues". He went on to say that this revised clause "wasn't discussed with any arbitration bodies, was contrary to practice throughout Australia and went against National Alternative Dispute Resolution Advisory Council recommendations". He said that it would "result in parties initiating litigation as opposed to arbitration to protect confidentiality of mediations". The Opposition agrees with the President of the Chartered Institute of Arbitrators that matters disclosed in confidence at mediation should remain confidential unless the parties otherwise consent. We believe there is a contradiction between proposed section 27D (2) and proposed section 27 D (7). For those reasons, the Opposition moves this amendment to delete proposed section 27D (7).

**Ms SYLVIA HALE** [11.06 p.m.]: This amendment and provision has caused the Greens some heartburn. Like other members of the crossbench we were addressed by Mr Minus, who made his views clear to us which, to my mind, were very persuasive. However, I have since been provided with a copy of an email from Angela Bowne, who is the Chair of the Alternative Dispute Resolution Committee of the New South Wales Bar Association. She says in part in that email:

I have consulted the other members of the ADR Committee and some senior silks who are not members of the Committee who have considerable ADR expertise, particularly in arbitration and mediation.

We had the benefit of Alan Limbury's views set out below, which you may have seen.

I will talk about his views in a moment—

The ADR Committee agrees with Alan's views generally. The proposed s27D is an improvement on the existing s 278 and the Committee believes that it will facilitate parties using the combined process. It is not likely to lead to satellite litigation.

That was a concern of the Greens. Ms Bowne enclosed a letter from Alan Limbury, who has been a senior arbitrator and mediator for more than 32 years and has a practice in international arbitration and mediation. His letter was in response to an article that appeared in the *Australian Financial Review*. He said:

There has been little or no use of the existing s.27, primarily because the parties are required to agree in advance to the same person mediating and then arbitrating, with no opportunity to "opt out" after the mediation phase should they have concerns as to the impartiality of the arbitrator, having regard to what happened in the mediation.

He seems to indicate that the current section 27 is not working. He then talked about the proposed section that the Opposition now wishes to delete from the bill. He said:

The added requirement that, before proceeding thereafter to arbitrate, the neutral—

Presumably that is the mediator—

Must disclose to all parties any confidential information learned in the mediation considered to be material to the arbitration is reflected in similar legislation in Hong Kong and Singapore. I was concerned about it at first but have come to the conclusion that this is a sound provision, for the following reasons: (1) it lessens the likelihood that the award could be challenged, let alone set aside, because the arbitrator has been influenced by representations to which other parties have no opportunity to respond, and (2) any sensible disputant is going to ask the neutral, before deciding whether or not to consent to that person continuing as arbitrator, to specify the proposed disclosures. If the neutral refuses to do so until the arbitration has begun, the parties are at liberty to refuse to consent to the arbitration taking place with the same neutral. Likewise if, after being told privately what the neutral intends to disclose, a party is not willing to permit such disclosure.

So there is no basis for the suggestion made in the AFR [*Australian Financial Review*] article that this requirement will lead parties to initiate litigation as opposed to arbitration to protect confidentiality of mediations, nor any basis for concluding that confidences will be disclosed against a party's wishes.

Although this process of pre-consent enquiry is not clearly laid out in the Bill (as it could be), the section will work as I have described without the need for amendment.

The final comment about it not being clearly laid out in the bill is very apt, and that is unfortunate particularly as this is basically model legislation, which it is anticipated all other jurisdictions will copy or base their own legislation upon, and therefore it would be preferable had the wording been less ambiguous or clearer as to the process. Nevertheless, one assumes that one can take the advice of very experienced mediators that it will be possible to make these inquiries and, if you are not satisfied with the response or information provided, or you have doubts as to the impartiality of the mediator or arbitrator, you can opt out of the process. For that reason, the Greens will not support the Opposition's amendment.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.12 p.m.]: The Government does not support the amendment, but I will explain the consultation process that has been gone through as we find ourselves dealing with this bill tonight. There was a draft bill and an issues paper and many parties made submissions. As a result of the submissions, the provisions were reformulated and again taken to the Standing Committee of Attorneys-General. Ms Hale is right in that it is model legislation and it is also the case that it has been through extensive consultation.

Specifically in relation to the Opposition's amendment, proposed section 27D of the bill relates to the power of an arbitrator to act as a mediator or other non-arbitral intermediary. In the course of arbitration, the arbitrator may assist the parties to attempt to settle the dispute by means other than arbitration, such as mediation. This is what is often referred to as a Med-Arb clause. It facilitates the use of multiple dispute resolution techniques by one practitioner to get the matter resolved. This provides the parties with the flexibility to attempt to solve their dispute by negotiation and agreement, but also provides certainty, should the mediation terminate, as the arbitration is still able to proceed to a binding award. For these combined processes to be used, the arbitration agreement needs to provide for this to happen, or the parties need to agree in writing to this happening, presumably after suggestion by the practitioner that it would be conducive to resolution of the matter.

It should be borne in mind that proposed section 27D will therefore apply only if the parties want to use this combined mediation and arbitration process. Under the proposed section, an arbitrator acting as a mediator may communicate with the parties collectively or separately and must treat any information obtained from a party with whom they communicate separately as confidential, unless that party otherwise agrees, or the arbitration agreement relating to mediation proceedings otherwise provides. While this provision allows flexibility and provides for the possibility of resolving the dispute by the parties' own agreement, there are two concerns that can arise where a person acts as both arbitrator and mediator in the same dispute.

An arbitrator who conducts confidential discussions with the parties may well lose the objective appearance of impartiality. In addition, there is the immediate concern about due process if the arbitration subsequently proceeds. Difficult problems arise about how any confidential information the arbitrator has obtained is to be used. To ensure procedural fairness and eliminate the potential for abuse of natural justice, the other party should have the opportunity to respond to or rebut any such information. The section therefore provides that, should the mediation terminate for any reason, the person who has acted as mediator and then

proposes to resume their duties as arbitrator must disclose to all other parties so much of the confidential information that has been obtained from a party during mediation as the arbitrator considers material to the proceedings.

However, the section also provides that a mediator can only conduct subsequent arbitral proceedings with the written consent of all parties. This affords parties a method of protecting their confidential information should they not wish it to be disclosed, and avoids disadvantaging a party that has engaged freely and fully in the mediation process. Therefore, if the parties do not wish to have the same person conduct the mediation and arbitration, they are able to withhold their consent and the section then provides for the appointment of a substitute arbitrator. If parties do choose to continue with the same person, they do so having given informed consent that the arbitrator must disclose any information they have provided in private sessions that the arbitrator considers relevant to the proceedings to afford the other party a chance to respond to that information. The Government believes that the parties in these matters are going to be advised by experienced lawyers. Presumably, a well-advised party will discuss with the arbitrator prior to giving consent to that person continuing, what information the arbitrator proposes to disclose.

By requiring the parties' written consent to resume subsequent arbitral proceedings, the section addresses the risk of bias by providing parties with the ability to withhold their consent should they believe the subsequent arbitral process would be flawed or unfair. However, to provide a measure of protection for arbitrators, should the parties give their written consent to a person conducting subsequent arbitral proceedings, no objection can then be taken solely on the ground that the person acted previously as a mediator.

Proposed Section 27D allows the parties to settle their dispute by their own agreement, but also ensures that should attempts to settle not be successful a binding resolution is able to be delivered by an arbitrator. The consent-based regime requiring the parties' consent to enter into mediation or other non-arbitral processes with an arbitrator and to then proceed to subsequent arbitral proceedings should settlement not be reached, provides procedural safeguards to address concerns about the potential for abuse of natural justice and the risk of bias.

There is one matter that the Government would like to correct. In a letter to the *Australian Financial Review* on 8 June, Michael Sweeney, past Deputy Chair of the Institute of Arbitrators and Mediators Australia (Victorian Chapter), said of the disclosure provisions in proposed section 27D:

This is extraordinarily novel; a world first.

This is not correct. Both Singapore and Hong Kong have in their Acts provisions of similar effect. One main objective of this bill is to harmonise our domestic arbitration law with the international arbitration law. The United Nations Commission on International Trade Law Model Law, on which the bill is largely based, does not have a Med-Arb clause. Because of the interest in using this sort of process, we included this section in the bill. It would be very ill-advised if, in New South Wales, we adopted parochial laws on this issue that are out of step with other States and the big regional arbitration hubs of Singapore and Hong Kong. It is vital that we keep up progress on getting uniform commercial arbitration law. The current arbitration Acts are out of date. Doug Jones, President of the Australian Centre for International Commercial Arbitration, wrote to the Attorney General in the following terms on 7 June:

ACICA regards it as critical that there be no delay in the implementation of legislation to reform commercial arbitration in Australia and whilst recognising that the issue of Arb/Med is a topic deserving of careful consideration, and one on which views may legitimately differ from a policy point of view, does not believe that the passing of legislation as presently drafted should be delayed pending a debate on this issue

The Government agrees with this position. The Government is concerned to ensure that the provisions we have in place facilitate effective dispute resolution. The issue of how best to regulate this sort of alternative dispute resolution process is one on which professional opinion is divided. The weight of it is, however, supportive of the Government's position. The Alternative Dispute Resolution Committee of the New South Wales Bar has advised the Attorney General that it supports the bill and proposed section 27D in particular. The Attorney General has also had similar indications from senior stakeholders. It is also the bill as agreed to at the Standing Committee of Attorneys-General by all jurisdictions. In order to work through the issues properly, however, the Attorney General will take proposed section 27D back to the Standing Committee of Attorneys-General and all parties will have the opportunity to make their case. In this way we can get on with the important task of modernising and harmonising the arbitration laws, and we can work through the issues raised about this section in an appropriate way. Accordingly, although the Government understands the Opposition's position we will not support the amendment.

**Reverend the Hon. FRED NILE** [11.20 a.m.]: I acknowledge the last comments of the Parliamentary Secretary that the Attorney General will take proposed section 27D back to the Standing Committee of Attorneys-General, which he advised me verbally he would do and that it would be in the second reading speech. I am very pleased that that is now on the record.

**Question—That Opposition amendment No. 2 be agreed to—put.**

**The Committee divided.**

**Ayes, 14**

Mr Ajaka	Miss Gardiner	Mrs Pavey
Mr Clarke	Mr Gay	Mr Pearce
Ms Cusack	Mr Khan	<i>Tellers,</i>
Ms Ficarra	Mr Mason-Cox	Mr Colless
Mr Gallacher	Ms Parker	Mr Harwin

**Noes, 23**

Mr Brown	Mr Kelly	Ms Sharpe
Mr Catanzariti	Mr Moselmane	Mr Smith
Mr Cohen	Reverend Nile	Mr Veitch
Mr Della Bosca	Mr Obeid	Mr West
Ms Fazio	Mr Primrose	Ms Westwood
Ms Hale	Ms Rhiannon	<i>Tellers,</i>
Mr Hatzistergos	Mr Robertson	Mr Donnelly
Dr Kaye	Ms Robertson	Ms Voltz

**Pair**

Mr Lynn

Mr Roozendaal

**Question resolved in the negative.**

**Opposition amendment No. 2 negatived.**

**Part 5 [Clauses 18 to 27J] as amended agreed to.**

**Parts 6 to 9 [Clauses 28 to 33F] agreed to.**

**Schedules 1 and 2 agreed to.**

**Title agreed to.**

**Bill reported from Committee with amendments.**

**Adoption of Report**

**Motion by The Hon. Penny Sharpe agreed to:**

That the report be adopted.

**Report adopted.**

**Third reading set down as an order of the day for a future day.**

**ADJOURNMENT**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.29 p.m.]: I move:

That this House do now adjourn.

### MAITLAND ELECTORATE PROJECTS FUNDING

**The Hon. ROBYN PARKER** [11.29 p.m.]: Tonight I speak about yet another appalling New South Wales Labor budget that is not about doing what is right for New South Wales but that is all about the next 10 months before the State election and members of the Labor Party trying to keep their jobs. This Government has had a recurring theme throughout its 15 years in office: It makes promises and it breaks promises. The costs of projects blow out and so does the time it takes to complete those projects. For example, in 2003 the former Minister for Roads, Carl Scully, made an announcement about the third Hunter River crossing in Maitland. Since then there have been six roads Ministers in New South Wales: Michael Costa, Joe Tripodi, Eric Roozendaal, Michael Daley, David Campbell and the current Minister, David Borger. But today the third Hunter River crossing is still not finished.

This week's announcement of the New South Wales budget by the Keneally Labor Government does little to lessen the public's scepticism of a tired and out-of-touch Government that has not delivered the infrastructure and services that the taxpayers of this State want. For example, in Maitland there was an announcement of funding for the Thornton rail bridge, but in his Budget Speech the Treasurer said that there was no completion date for this project, so here comes the next delayed road project for Maitland. It is not as though we are asking for a bridge to be built from Maitland to New Zealand: We are asking for a bridge to be built to meet the needs of a growing population in Thornton and Thornton north. Maitland City Council has already done a great deal of the work towards the construction of that new bridge.

However, the \$10 million announced in this week's budget is not for construction; rather it is for pre-construction work. Not a cent has been allocated for construction. In today's paper the local member admitted that it would take a lot more money to complete the project. Given Labor's cost blowouts of previous projects, who knows what bill taxpayers will be facing? The local member said that when he got his hands on projects they were delivered on time and on budget. The only problem is that there is no time line and there is no budget. But this Government does not care. All it cares about is saving its bacon at the next election. I am equally concerned about the Government's willingness to install mobile police command centres without adequately meeting existing community policing needs.

The Central Hunter command will receive a mobile unit. While that may be a useful resource for events in the area such as concerts in the vineyards, music festivals and events in Cessnock and Kurri Kurri, unless there are additional police numbers on the ground the service will still be stretching our front-line police officers. How will a mobile command centre assist residents in Maitland where police officers are doing a good job even though they lack support from this Government in the form of real resources? Police visibility is what people want. This Government is not doing enough to support and retain our existing police. The Government likes to put out public relations spin about more police. However, if we do have more police, why is the Government closing police stations? Where are those extra police? They are certainly not to be found in parts of Maitland. An extra resource does not mean an extra police officer.

I am also concerned about the State Labor Government's announcement of funding in the budget for the Tillegra Dam project. The Government allocated \$18.8 million on the basis that it would be approved following a merit review process. The New South Wales Opposition has stated clearly that it does not support the construction of the Tillegra Dam, which was announced only as a diversion from Labor's own political scandals. The overwhelming majority of Hunter residents do not want the dam. The Government does not need to wait for the outcome of the merit review because the science on the Tillegra Dam overwhelmingly backs our position that this project should not go ahead. The project was never part of the State Plan; it was never about securing water for the region, which is not short of water in the first place.

Despite this, Maitland residents are already paying more on their water bills, on top of the increased prices they are paying for electricity and vehicle registration costs. The Government must stop this \$477 million project from going ahead because we simply cannot afford to have another multimillion-dollar stuff-up like the \$500 million Rozelle metro program. The New South Wales budget has failed to address infrastructure issues not only in the Hunter but also right across the State. The Government will try to use this budget to get back into office next year, but we cannot afford for this Government, which has an appalling record of economic mismanagement, to be running the State for another four years, giving it a total of 20 years in office.

### RELIGIOUS EDUCATION AND SCHOOL ETHICS CLASSES

**Dr JOHN KAYE** [11.34 p.m.]: For 130 years special religious education in New South Wales public schools has been operated by an oligopoly. The official gatekeeper is the director general's Consultative

Committee on Special Religious Education. However, in reality the Christian churches, the Jewish Board of Deputies and the Islamic Council hold an overwhelming majority of seats and hence call the shots on who is in and who is out. For as long as can be remembered, special religious education has been operated as a self-selecting club that excludes any groups or ideas that do not fit within the narrow field of organised religion. The New South Wales Government and the Minister for Education and Training, the Hon. Verity Firth, are to be congratulated on agreeing to prise open this door by supporting the trial of ethics as an option for students whose parents profess none of the faiths on offer or believe that religion is a private matter.

Rather than these children watching videos, reading books or running wild in the playground, the St James Ethics Centre materials provide a meaningful supplement to mainstream education. It was not meant as a challenge to the religious education establishment. While some students inevitably will cross from organised religion to the ethics class, there has always been churn within the religions on offer at any school. In any event, if students or their families find ethics classes more attractive than religious indoctrination, public education as a secular institution should provide that option. The ethics trial has met with a torrent of passionate opposition from many religious leaders and their followers that is out of all proportion to the intent, circumstances or impact of the trial. One honourable exception has been the Uniting Church, whose leaders are to be congratulated on living by their creed and generously welcoming the trial.

The form and nature of the responses raise a number of important issues. The first is jurisdiction. Organised religions are seeking to exert control over what happens to students who are not members of their faith. This is a dangerous precedent whose violent historical antecedents were resolved only by the doctrine of the separation of church and state. Parents who want their children gainfully engaged in the one hour set aside for special religious education must be wondering what business it is of unelected, unrepresentative churches to determine what happens to their children. These families and students will be justified in telling Archbishop Pell, Archbishop Jensen and the other church opponents to butt out. Some of the responses have themselves displayed an extraordinary degree of unethical behaviour. On ABC's *Stateline* on Friday 28 May the Catholic Bishop of Wollongong, Peter Ingham, told two downright lies in relation to the legality of the trial. The bishop said:

Legally, you know, the Government is committed to this since the early days of Henry Parkes' Education Act.

The interviewer challenged this assertion and asked:

Where in the Education Act does it say that no lessons should be offered in competition with SRE?

Stumped by the stark fact that the Act does not contain any injunction against the trial—indeed if it did I am sure there would have been a legal challenge by now—the bishop dug himself in even deeper and replied:

It's enshrined in the Constitution.

Of course nothing in either the Constitution or the Act itself makes the trial unlawful. There is no legal mandate to require children to waste their time. However, Bishop Ingham saw the need to fabricate all the way to the Constitution. The bishop himself could benefit from the St James course and learn about the values of truthfulness. But unethical behaviour is not limited to the bishop's side of the reformation. This morning Youthworks, the youth arm of the Sydney Anglican Church, was caught organising a stack of public school parents and citizens associations with the stated aim of undermining the future of ethics classes. Its "SRE on trial" website page entitled "Whose P&C is it again? Why Christians need to be involved in the local P&C" warns:

Issues such as the current ethics trial are being discussed there. If we are "missing in action" from these groups they will have no Christian perspective on this trial. In one local P&C Christians found themselves in the minority on this issue. As a result unconditional support was given to introduce ethics on a full-time basis.

Under the section "What to say and do in your P&C meeting" the page suggests:

1. Join your P&C today, as you may not be able to vote on important issues unless you do.

Youthworks is promoting the special religious education on a trial site using a viral email that asks parents:

Help protect SRE—Join our local P&C

It appears that the Sydney Anglicans have taken a leaf out of the worst behaved Labor Party branch stackers. Stacking, lying and selfishness are hardly ethical behaviour. However, it seems that the end justifies the means when an organised religion's stranglehold on special religious education is challenged.

### **BUILDING BETTER SCHOOLS PROGRAM**

**The Hon. HELEN WESTWOOD** [11.39 p.m.]: I inform the House of three new facilities I recently opened at Killara, Normanhurst Boys and Ku-ring-gai high schools. These three excellent State schools are in my duty electorates. These wonderful new facilities have been refurbished as part of the New South Wales Government's \$145 million Building Better Schools Program, which includes upgrading some 800 science learning spaces in 159 schools across this State. New South Wales students continue to achieve results that match the best in the world. The upgrade of these specialist science teaching facilities at Killara and Normanhurst schools and the food technology facility at Ku-ring-gai certainly will enhance the capacity to deliver quality programs for students.

These new facilities are part of the great transformation that is taking place in New South Wales public schools. The design for the new science laboratories was based on research and input from head science teachers from each of the 10 school regions across New South Wales as well as from science curriculum experts. These designs amalgamated the research to produce effective learning spaces for the teaching of science and food technology to facilitate student-centred learning and inquiry-based teaching. For example, the new science learning spaces include new fixed and loose furniture, a safety eyewash, one accessible bench per site for use with students with access and mobility issues within one of the refurbished spaces, new fume cupboards, data outlets and cabling for future technology.

The new science preparation area includes direct access to a chemical fume cupboard, a new safety shower and new storage. The food technology facility at Ku-ring-gai High School includes a light commercial kitchen and seminar space. These new facilities will further widen the scope for the combined total of almost 3,000 students across the three schools. These projects acknowledge the importance of hands-on learning that is so fundamental in delivering quality educational programs for all students. When I visited each of these schools I was met by the school captains and I discussed with both teachers and students how these new spaces have enhanced their learning and teaching experience. They expressed to me how teaching and learning are much more enjoyable and innovative following the addition of these fantastic new facilities.

The students have access to facilities in education and training to deliver quality science, food technology and hospitality programs. These new learning spaces allow for enhanced investigative study, a more flexible integration of class work and the integration of technology into quality teaching and learning. In addition, they also provide optimum levels of safety for the staff and students who will work in them each day. These schools are fine examples of what a New South Wales public education can achieve. They have an excellent reputation in the wider community for educating students of all abilities, interests and backgrounds as well as focusing on preparation for tertiary study and support when students look for work. Over the years, these schools have produced many outstanding students and professionals including university medallists in the science and mathematics fields. Among them is Rhodes Scholar Dr Wendy Erber, formerly from Killara High School, the first female Rhodes Scholar from New South Wales. Currently Ms Erber is a consultant haematologist and researcher at Addenbrooke's Hospital in Cambridge, England.

In the most recent tests to determine the level of scientific knowledge in the junior years nearly 70 per cent of Normanhurst Boys High School students were in the top two bands, compared with a statewide figure of 14 per cent. This scientific knowledge level is reflected also in the fact that almost 50 per cent of the 2009 graduates went on to study science-related subjects at various tertiary institutions in 2010. I am proud to be part of the Government that is delivering these facilities for the communities of our State. I also note the investment that the Government is making in our fine teaching staff by providing incentives to attract and develop the best and brightest teachers to our schools, particularly those schools serving the State's most disadvantaged areas.

I thank all those students, teachers, principals and staff who so graciously gave of their time to show me around their school. I especially mention the school captains and thank them: from Ku-ring-gai High School, Brodie Dryden and Samuel Johnson; from Killara High School, Nicola Bevitt and Cameron Carmody; and from Normanhurst Boys High School, Sam Farrell, Isaac Frelander and Senior Prefect Matthew Taylor. All these new facilities are part of the great transformation that is taking place in New South Wales public schools. I should mention also that the food technology students at Ku-ring-gai High School prepared a scrumptious morning tea for all the visitors to the new facility. It was a credit to their skills and interest in food technology.

### **STANDING COMMITTEE ON LAW AND JUSTICE**

**The Hon. CHRISTINE ROBERTSON** [11.44 p.m.]: On Monday 24 May I had the pleasure of hosting a lunch in Parliament House to celebrate 15 years of the Standing Committee on Law and Justice. It was

a great occasion that brought together past and present committee members, stakeholders and a number of legal and social advocates. Attorney General John Hatzistergos delivered an important speech registering the value of the work of the committee. Committees have operated in this House since its earliest days but it was not until the late 1980s that committees began to develop into one of the Legislative Council's key mechanisms for policy development and review of Executive activity. In 1985 the House appointed the Select Committee on Standing Committees to investigate and report on a structured system of standing committees.

Through that process the two initial standing committees—the state development and social issues committees—were created. I am told that John Evans, who was the Deputy Clerk at the time, worked closely with John Hannaford to establish those committees. The third standing committee, the Standing Committee on Law and Justice, was appointed on 24 May 1995 during the Fifty-first Parliament, when John Evans was the Clerk and Max Willis was the President. The first Chair of the Committee was the Hon. Bryan Vaughan, followed by the Hon. Ron Dyer in May 1999, and then in May 2003 I took up the position of committee chair. The committee has conducted 37 inquiries and produced 41 reports. Many of the committee's inquiries have relatively long time frames that allow us to conduct an in-depth analysis of issues on behalf of the Parliament.

Over the years the committee has developed the reputation for conducting detailed inquiries into complex matters of public policy and increasingly is relied upon by the Attorney General to inquire into complex legal issues and engage with key stakeholders to develop recommendations for law reform. A few examples of reports the committee has published are the inquiry into the motor accidents scheme and compulsory third party insurance, and subsequent reviews of the Motor Accidents Authority. The committee has been, and continues to be, instrumental in ensuring that appropriate treatment and rehabilitation are delivered to people injured in motor vehicle accidents. From the annual and then biannual reviews concerns emerged about the lifetime care of people catastrophically injured in motor vehicle accidents. The committee continued to monitor these concerns and ensured that they received attention. Ultimately this led to the establishment of the Lifetime Care and Support Authority.

The Inquiry into Crime Prevention through Social Support was held from 1988 to 2000. Its recommendations, most of which were accepted and implemented by the Government, stimulated a whole-of-government approach to crime prevention and influenced debate about crime and crime prevention generally. The report was circulated amongst key policy sections in the relevant agencies and in local government and influenced the development of crime prevention plans and related work at local and State government level. The inquiry into a New South Wales Bill of Rights from 2000 to 2001 recommended the establishment of a parliamentary committee with the function of scrutinising legislation. In 2002 the Legislation Review Amendment Act 2002 was passed and the Legislative Assembly's Legislation Review Committee was established and given the function of scrutinising bills. This demonstrates the importance of this particular committee.

The inquiry into Child Sexual Assault Matters in 2000 resulted in the piloting of the specialist child sexual assault jurisdiction in Parramatta court, resulting in considerable reform for affected children within the courts. The inquiry into Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations from 2004 to 2006 was one of the committee's broadest and most comprehensive in recent years, covering a range of community-based sentencing options available in New South Wales. Many of the reports recommendations have been adopted by the Government and have led to improvements in the use and effectiveness of non-custodial sentences in rural and remote areas of New South Wales and for disadvantaged groups. The report also has influenced policy debate in New South Wales. For example, in 2007 the Law Society adopted many of this report's recommendations into its policy platform for the election.

In relation to the inquiry into the Prohibition on the Publication of Names of Children Involved in Legal Proceedings, the recommendations in the committee's report led directly to the introduction of the Children (Criminal Proceedings) Amendment (Naming of Children) Bill, which was passed recently. There was also a recent report on the adoption of children by same-sex couples. The committee's inquiry and report made a significant contribution to the public debate about this important issue. Its recommendations may help to guide reform in this area in the future.

Results from committees only happen because of the commitment of individual committee members, the diversity of detailed submissions produced by stakeholders and members of the public, and the incredible talent and diligence of the Legislative Council committee secretariat. I particularly mention committee director Rachel Callinan for organising the celebration and putting together much of the information used in this adjournment speech.



## EMERGENCY SERVICES FUNDING

**The Hon. MELINDA PAVEY** [10.49 p.m.]: Often it is what is not written in budget papers that tells the most interesting story at budget time, especially when one is dealing with the New South Wales Government. The headline press release from the Minister for Emergency Services stated that a record \$972 million would be spent by the Keneally Government on emergency services across New South Wales. The press release fails to do a number of things. It fails to acknowledge that only 14.6 per cent of that funding comes from the New South Wales Labor Government, that 11.3 per cent now comes from local government, and that the remainder of the funding comes from insurance levies of those throughout New South Wales who insure their properties. They are very important facts that somehow were left out of the media release.

The details of the budget papers reveal very interesting facts from reading between the lines. The headline figures paint an alarming picture. I refer in particular to NSW Fire Brigades. Last year's budget included estimated expenses of \$545.5 million. However, the budget papers reveal that expenditure for the current financial year will be \$599.6 million, which represents an apparent blowout of \$54.1 million. This is a remarkable figure, and one that does not appear to be properly explained within the budget papers. However, an examination of the budget papers has enabled me to identify that workers compensation claims were forecast for the financial year 2009-10 to be 752. However, that figure has now been revised to 1,000 claims that are expected to be made by the end of the financial year. That represents a 25 per cent increase, which is a considerable increase that obviously has had a big impact on the costs of running NSW Fire Brigades relative to recurrent expenditure.

The budget papers mention that total employee expenses for 2010 reflect a hindsight workers compensation adjustment, thus the figure is not strictly comparable with 2010-11. That is an extraordinary figure. I remind the House of budget estimates last year when the NSW Fire Brigades budget was overspent by \$10 million, with the blowout attributable to workers compensation issues. During budget estimates hearings the Minister stated:

The review being undertaken by the Department of Premier and Cabinet is designed to identify the cost drivers [in relation to workers compensation]. It is obviously premature to discuss the results of that review now. However, it is aimed at ensuring that the budget performs in accordance with normal expectations in future.

We are in the future. We have had an incredible blowout. I do not think it would be incorrect to draw parallels between inquiries that are underway involving the Department of Premier and Cabinet and the KPMG inquiry into NSW Fire Brigades and see some correlations with this extraordinary increase in workers compensation claims within NSW Fire Brigades. That issue was met with denials at last year's budget estimate hearings; however, I will seek more information on this important issue.

I highlight the fact that the new 24-hour hotline, announced by Minister Whan, was to be staffed by experts in workplace contact matters—a hotline on which employees could discuss or report any workplace issues outside the normal chain of command. It would be very interesting to know the hotline's phone number. I have been trying to find the phone number for the hotline over the past day or so. It is not stated on any website anywhere. It is not on the NSW Fire Brigades website. It is not stated in the Minister's press release. It is not even in a press release by the commissioner. That is a very interesting puzzle.

I have also received very strong representations from the Rural Fire Service Association and the Volunteer Fire Fighter Association in relation to expenditure within the Rural Fire Service budget. While there has been a freeze on capital expenditure in some areas of the Rural Fire Service, that freeze has not accorded with increases in the number of staff of the Rural Fire Service. The projected increase in staff for the Rural Fire Service is 43 while at the same time we have a freeze on maintenance grants to local brigades, funding for new and renovated brigade stations, fire control centres, and the installation of water tanks budget is frozen at \$16 million.

Another matter of great concern is that there is no capacity within the budget papers or the Government to increase the number of firefighters with voluntary competency index qualifications. That has decreased 5 per cent from last year's forecasts. Another matter of great concern is that the budget fails to recognise that an extra 43 staff will be allocated to the Rural Fire Service and an extra 32 staff will be assigned to the State Emergency Service. Most of those will be deployed to the Wollongong head office. [*Time expired.*]

**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** [11.54 p.m.]: On Monday this week Ian Macdonald resigned from this House. There are a number of unexplained events and players linked to his resignation. Two associates of Mr Macdonald who played significant although not yet fully explained roles in the activity of the former Minister are Grant Edmonds, who is the former owner of an insolvent Young abattoir, and Mr Macdonald's former chief of staff and former Mayor of Young, Tony Hewson. Mr Hewson also was a director of one of the companies that operated the Young abattoir.

In the mid-1980s Mr Edmonds was employed as the manager of the Commonwealth Bank at the North Auburn branch. Mr Edmonds was the subject of an internal investigation into a series of accounts and loans associated with companies in which he had undeclared personal interests. The investigation uncovered evidence that Mr Edmonds approved risky loans and found that he was complicit in the use of fake company seals, had forged signatures, and had opened accounts in fictitious names. After investigating Mr Edmonds' activities at the North Auburn branch of the Commonwealth Bank, instead of informing the Australian Federal Police of the fraud and other illegal activities, senior Commonwealth Bank officers simply asked Mr Edmonds to resign.

In 1996, as head of Burrangong Meat Processors, Mr Edmonds purchased the Gunnedah abattoir. A year after buying the Gunnedah abattoir Mr Edmonds closed the business and sold its assets. The abattoir had been operating for more than 40 years when Mr Edmonds took over its operations. In February 2010 the Young abattoir that had been purchased by Mr Edmonds suffered a fate similar to that of the Gunnedah abattoir. In February this year the Burrangong group became insolvent and the Young abattoir was shut down, leaving 300 local people unemployed. Company records show that Mr Hewson transferred his directorship to Mr Edmonds just days before the company collapsed.

Mr Edmonds employed Mr Hewson first as a senior manager and then as a director of one of the key abattoir companies that made up the Burrangong group of companies. I understand that Mr Hewson insists that the documents were forged and that he resigned as a director in 2004. The Australian Securities and Investments Commission [ASIC] records I have seen do not accord with Mr Hewson's assertion. Mr Edmonds still owes his former employees more than \$2 million in missing workers entitlements and superannuation. Some employees claim that their superannuation had not been paid every year prior to the company going into receivership, and voluntary contributions also have disappeared from the books. Approximately \$20 million is still owed to local businesses and creditors in the Young area.

One of the unusual aspects of this saga is that Mr Edmonds planned to pay off his debts with the millions of dollars worth of unsold meat that was left over in the abattoir's chillers. However, two days before the receiver moved in the abattoir was broken into. Its security cameras and alarm were turned off upon entry and its computer hard drives were stolen, along with the millions of dollars worth of unsold stock. Mr Edmonds claims he knows nothing about the circumstances surrounding the burglary. Mr Macdonald appears to have a number of connections with Mr Edmonds. He appointed Mr Edmonds as chair of the Government committee overseeing the National Livestock Identification Scheme, and they travelled overseas together on work-related matters. Five years ago consumer advocate Bruce Ford informed Mr Macdonald's office of Mr Edmonds' fraudulent activities. I understand that Mr Ford took this action after he discovered that Mr Macdonald had appointed Mr Edmonds as chair of the Livestock Identification Board.

I have seen the email from Mr Macdonald's office in which it is acknowledged that the former Minister received the email with details of Mr Edmonds' fraudulent activities. Mr Macdonald denied receiving this information on ABC television. Mr Macdonald's contact with Mr Edmonds extended to work-related trips to China. Since the last State election in March 2007 Mr Macdonald made at least three taxpayer-funded visits to China. I understand that Mr Macdonald has acknowledged that he travelled to China with both Mr Hewson and Mr Edmonds, but is unsure if the three travelled together. Shortly after one of the trips to China the New South Wales Government entered into an agreement with China Shenhua to explore for coal on the Liverpool Plains. This arrangement was unprecedented as China Shenhua agreed to pay \$300 million to explore for coal. I understand that Mr Hewson now owns a mining company.

When the agreement with China Shenhua went public in 2008 I called on former Minister Macdonald to disclose details of the agreement with China Shenhua. Although the former Minister denied there was any arrangement beyond the exploration, this coal company's actions suggest that it was confident exploration would

proceed to full-scale mining operations. The company has been buying up farms in the area where it would mine. Last month a senior vice-president of Shenhua Energy was quoted in the *Australian Financial Review* revealing the location of its mines and plans for coal-fired power plants in the Hunter.

The Greens urge the Independent Commission Against Corruption to expand its inquiry to include a more detailed investigation into Mr Macdonald's association with Mr Hewson and Mr Edmonds, their trips to China and details of agreements with Chinese mining companies. The Australian Securities and Investments Commission should expand its investigations into matters concerning the companies with which Mr Hewson and Mr Edmonds are associated. [*Time expired.*]

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

**Motion agreed to.**

**The House adjourned at 11.59 p.m. until Thursday 10 June 2010 at 11.00 a.m.**

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