

LEGISLATIVE COUNCIL

Wednesday 23 June 2010

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

The President read the Prayers.

PHOTOGRAPH OF LEGISLATIVE COUNCIL

The PRESIDENT: I advise members that before the House proceeds with business an official photograph will be taken of members and officers of the Legislative Council. For this purpose I instruct members and officers to follow the directions of the photographers.

INDUSTRIAL RELATIONS AMENDMENT (PUBLIC SECTOR APPEALS) BILL 2010

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

Motion by the Hon. Tony Kelly agreed to:

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

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

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 85, 95 and 200 outside the Order of Precedence objected to as being taken as formal business.

NUCOAL COAL EXPLORATION LICENCE

Production of Documents: Order

Motion by the Hon. Duncan Gay agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Mineral Resources or the Department of Industry and Investment relating to NuCoal's coal exploration licence:

- (a) all documents and correspondence exchanged between the current or former Minister for Mineral Resources, or the Department of Mineral Resources, and the CFMEU, NuCoal or Mr John Maitland, since 1 January 2007, and
- (b) any document which records or refers to the production of documents as a result of this order of the House.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items No. 291 and 292 outside the Order of Precedence objected to as being taken as formal business.

CBD METRO

Production of Documents: Report of Independent Legal Arbiter

Motion by Ms Lee Rhiannon agreed to:

1. That this House notes the report of the Independent Legal Arbiter, Sir Laurence Street, dated 7 May 2010, on the disputed claim of privilege on documents relating to a further order for papers regarding CBD Metro Rail.

2. That this House orders that the disputed document specified in written communication of Ms Rhiannon and Mr Pearce be laid on the table by the Clerk, with the exception of the following documents which shall remain available to members of the Legislative Council only:
 - (a) Treasury document 139,
 - (b) Treasury document 321 entitled "Bid Cost reimbursement working paper", and
 - (c) Department of Premier and Cabinet document 33 entitled "Ministerial briefing—Sydney Metro—Costing", a redacted version of which has been tabled and made public.
3. That, before being laid on the table by the Clerk, the disputed documents be released to the Department of Premier and Cabinet for redaction of certain information as follows:
 - (a) Department of Premier and Cabinet documents 27-32, for the redaction of cost details where they expose the Government to a commercial disadvantage if the project was to be put to tender, while keeping monetised benefits visible,
 - (b) Department of Premier and Cabinet documents 34 and 35 for the redaction of the following:
 - (i) information which may contain individuals' personal information that would be inappropriate to release for privacy reasons, and
 - (ii) information which may disclose the financial and commercial operations of businesses, with regard to:
 - account details,
 - property valuations,
 - business income, turnover and third party business information,
 - (c) RailCorp documents for the redaction of any information that could pose security risks to the transport network, and
 - (d) NSW Treasury and Sydney Metro documents for the redaction of the following:
 - (i) information which may contain individuals' personal information that would be inappropriate to release for privacy reasons,
 - (ii) information which may disclose the financial and commercial operations of businesses, with regard to:
 - account details,
 - property valuations,
 - business income, turnover and third party business information, and
 - (iii) financial information which may impact on the ongoing commercial negotiations.
4. That the disputed documents, together with the redacted versions, be returned to the Clerk on Monday 5 July 2010.
5. That, if the House is not sitting at the time the documents are lodged with the Clerk, the documents are deemed to have been laid before the House, and published by order or authority of the House.

PRIVILEGES COMMITTEE

The Hon. Kayee Griffin, as Chair, tabled report No. 51, entitled "Draft Constitution (Disclosures by Members) Amendment (De Facto Relationships) Regulation 2010", dated June 2010, together with correspondence received.

Report ordered to be printed on motion by the Hon. Kayee Griffin.

AUDITOR-GENERAL REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Government Investment in V8 Supercar Races at Sydney Olympic Park: Industry and Investment NSW, Homebush Motor Racing Authority, Events NSW", dated June 2010, received and authorised to be printed this day.

PETITIONS

Identity Concealment

Petition opposing any face covering that conceals the identity of a person and prevents Australia from being an open society, and requesting that the House support the private member's bill of Reverend the Hon. Fred Nile that prohibits within all public areas the wearing of any article of clothing that conceals a person's identity, received from **Reverend the Hon. Fred Nile**.

Cootamundra Community Strategic Plan 2010-2020

Petition requesting that the House dismiss the current plan and proposed rate rise and ask the council to conduct a more financially responsible, inclusive and open plan, received from the **Hon. Duncan Gay**.

Centennial Park and Moore Park Trust

Petitions stating that Centennial Park and Moore Park Trust should continue to manage all public lands currently under management by the trust, and requesting that the House not support the transfer of management control of these parklands to the Sydney Cricket Ground Trust, received from **Mr Ian Cohen** and **Ms Lee Rhiannon**.

Religious Education and School Ethics Classes

Petitions opposing the newly proposed secular humanist ethics course in public schools and calling on the Government to support the cancellation of the ethics course and express its support for scripture classes, received from the **Reverend the Hon. Fred Nile** and the **Hon. Duncan Gay**.

Moore Park Land Transfer

Petition requesting that the Government desist with the plans to transfer Moore Park land, increase funding to the Centennial Park and Moore Part Trust to protect the parklands, and ensure that public consultation is undertaken on the future use of Centennial Park and Moore Park, received from **Ms Lee Rhiannon**.

BUSINESS OF THE HOUSE**Withdrawal of Business**

Private Members' Business items Nos 4, 52, 73, 156, 210, 225 and 282 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.

Private Members' Business items Nos 5, 9, 94 and 118 outside the Order of Precedence withdrawn by Mr Ian Cohen.

BUSINESS OF THE HOUSE**Postponement of Business**

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

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders: Precedence of Business****Motion by the Hon. Tony Kelly agreed to:**

That standing and sessional orders be suspended to allow the moving of a motion forthwith relating to the conduct of business of the House this day.

Precedence of Business**Motion by the Hon. Tony Kelly agreed to:**

That, notwithstanding anything to the contrary in the standing and sessional orders, this day:

- (a) debate on budget estimates take precedence after questions for one hour; and
- (b) Government Business take precedence after debate on budget estimates.

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

Ms SYLVIA HALE [11.37 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 287 outside the Order of Precedence, relating to the censure of the Minister for Planning, be called on forthwith.

There are essentially two reasons why the Minister for Planning should be censured. One relates to an inability to substantiate his assertion that more than 50 per cent of the complaints he receives about councils relate to Cessnock City Council. Given the documents that were released to the House following the passage of an order made under Standing Order 52, there is ample evidence that the Minister's assertion that he received multiple complaints about Cessnock City Council have no substance whatsoever.

Indeed, the Minister was unable to substantiate his assertion when, belatedly, he supplied Cessnock council with the details of a few of the supposed complaints that had been received. That is but one aspect of the motion. The other aspect is that the Minister, I believe, has acted recklessly and has abused his position of power. That is basically why I believe the motion should be debated as a matter of urgency.

The Hon. Greg Donnelly: Point of order: It seems that Ms Sylvia Hale is dealing with what are her claims, which really descend into an attack on the Minister in terms of the reference to recklessness and such. As an experienced member of this House Ms Sylvia Hale knows that she should confine her comments to establishing why her motion deserves to be debated ahead of every other matter listed on the *Notice Paper* for today. Ms Sylvia Hale knows full well that this is the last week before the winter recess, that there is much Government business to be dealt with—

The PRESIDENT: Order! The member's point of order has now become a speech on urgency. He should confine his comments to the point of order.

The Hon. Greg Donnelly: I ask that you direct Ms Sylvia Hale to confine her comments to establishing why her motion deserves priority.

The Hon. Don Harwin: To the point of order: It is quite clear that the gravity of the claims is the reason the motion is urgent, and therefore Ms Sylvia Hale is entirely in order.

The PRESIDENT: Order! I uphold the point of order. Ms Sylvia Hale will confine her comments to why she believes her motion is urgent.

Ms SYLVIA HALE: I believe that any person who peruses the documents that have been made available as a result of the order made under Standing Order 52 will come to the conclusion that the Minister had no basis on which to tell Cessnock City Council that he was considering stripping the council of its planning powers. Those documents include letters from the Director General of Planning himself that provide advice to the Minister on varying aspects that amply demonstrate no basis for his proposal.

This motion is urgent because the Minister is bringing this House into disrepute. Previous Ministers have been allowed to resign yet members have not had the opportunity to pass censure motions or comment on their actions. All members are affected by public cynicism about the operations of this Parliament. When Minister Kelly was the Minister for Police he was fond of saying, "If you have got nothing to hide you have got nothing to worry about." The issues here are of substance. They go to the very heart of the Minister's responsibility. His actions in relation to Cessnock City Council were manifestly unreasonable. By proposing to strip the council's planning powers away in essence the Minister was requiring the council to do something that was inherently illegal and contrary—

The Hon. Robert Brown: Point of order: My point of order is that the member is launching into substantive debate and not addressing urgency. Ms Sylvia Hale appears to be flouting the Chair's ruling.

Ms SYLVIA HALE: To the point of order: Were I to launch into substantive debate I would be discussing the actual documents. On the basis of my reading of those documents and other people's documents there is only one conclusion to be drawn—that is, the Minister has abused his power.

The PRESIDENT: Order! I uphold the point of order. Ms Sylvia Hale will continue to speak to urgency.

Ms SYLVIA HALE: I believe this House will be brought into disrepute if these matters are not debated. It can be easily shown, and will be shown, that this has been the case. [*Time expired.*]

The Hon. TREVOR KHAN [11.42 a.m.]: The Liberal-Nationals Coalition will be supporting urgency. The reason for urgency is quite simple: It goes to the efficacy of the operations of this House. The issues raised by Ms Sylvia Hale are serious and are prime facie borne out by the details disclosed in her motion. Very important processes operate in this House: the opportunity for Ministers to answer questions thoroughly and honestly. On this occasion not only was there a failure by the Minister to answer questions fully, but these serious matters also go to the integrity of the processes that operate in this House. That is why the matter is urgent. One only has to look at the answers given by the Minister on 11 May and 13 May in response to questions by Ms Sylvia Hale and the Leader of the Opposition to understand that. On 13 May, in response to a question asked by the Leader of the Opposition about Cessnock council, the Minister said:

I have 26 pages of examples [of complaints about Cessnock Council].

On the same day that that answer was given an adviser to the Minister for Planning emailed six other members of the Minister's staff saying:

We have been quoted as saying, and so has Tony, that 'More than half of all complaints received by our office relate ... to Cessnock Council.'

The journo wants details. I've told her privacy prevents us doing that but she asked for the number of complaints.

Is this readily accessible?

This was from an adviser to the Minister on the same day that the Minister gave the answer in this House. What more is said in the email? I continue the quote:

Do we know how many complaints we have received since taking office late last year and how many exactly relate to Cessnock?

Would be fantastic info to have regardless.

On the face of it the Minister has in essence told a furphy in this House. He said something that it appears his advisers knew nothing about and were frantically searching for information on. That is fundamental to the operation of this House. How can this House operate with any degree of satisfaction in the honesty and integrity of the Ministers of the Crown if they are simply throwing words about willy-nilly without any basis for their assertions?

What does it say about the system of government operating in this State if, after a Minister has answered a question without notice, the advisers are running around frantically trying to find information to back the answers up? From the documents that have been produced in this case we know that that evidence was never found. No documentary evidence has ever backed up what the Minister said in this House. It is fundamentally appropriate and important to the operation of this place that the Minister on this day, at this time, explains to the House how he made these statements so recklessly or deliberately without any basis of fact for the assertions that were made. Urgency should be granted on that basis.

Reverend the Hon. FRED NILE [11.46 a.m.]: I do not believe this matter is urgent. This motion to sanction the Minister makes a mockery of the whole procedure for censuring Ministers. A censure motion is a most serious procedure in this House and one that is not lightly put into action. There is no justification for this motion and it should not be supported as part of a political vote-winning strategy.

Dr JOHN KAYE [11.47 a.m.]: In supporting this urgency motion I can do little more than echo the fine words of Mr Trevor Khan and Ms Sylvia Hale as to the need to clean this matter up. The issue is on the *Notice Paper*. The facts are there. It is urgent that the Minister be given the opportunity to respond to a very strong prima facie case that he misled the House. There can be nothing more significant than an assault on the integrity of this House. The prima facie case establishes that the Minister misled the House with his answer to a question that was not backed up by fact. That answer at best, most generously put, was nothing more than wild guesswork. That leaves the House with no confidence in the way the Minister has behaved or in any of his future answers. The only way this House can continue to operate is to clear the matter up. The Minister should

be given the opportunity to respond and settle the issue in a full debate on the substantive motion of Ms Sylvia Hale. As I understand the argument of Reverend the Hon. Fred Nile in objecting to urgency, he considers this to be a very serious matter but as he does not support it he will vote against urgency. It is a serious matter—

Reverend the Hon. Fred Nile: I said censure motions are only used in serious matters and this is not a serious matter.

Dr JOHN KAYE: I acknowledge the interjection by Reverend the Hon. Fred Nile but I am not quite—

Reverend the Hon. Fred Nile: It is overkill.

Dr JOHN KAYE: I find that quite fascinating coming from Reverend the Hon. Fred Nile. Leaving that aside, Reverend the Hon. Fred Nile does not agree with the substantive motion because he sees it as overkill. Surely he would therefore want the substantive issue debated as a matter of urgency so that he can put his case as to why it is not serious. I believe, as would many members in this Chamber, that the matters raised by Ms Sylvia Hale are extremely serious. They are so serious that it is urgent that they be debated. If we do not clear up these matters they remain on the table unresolved and the integrity of the House remains unresolved.

The Hon. Trevor Khan: Like a stench hanging over the whole House.

Dr JOHN KAYE: Yes, I could not agree more. This is a serious matter that relates to the integrity of the House. It relates to the extent that we, as members, rely on each other to tell the truth in answers to questions and in speeches. It is essential that this matter be cleared up urgently.

The Hon. CATHERINE CUSACK [11.50 a.m.]: I want to comment on the idea that this urgency motion is overkill. I point out that there is no other way that this House can deal with this matter. As members are aware and as the President has frequently ruled, allegations made against other members are out of order and ought to be dealt with by way of substantive motion. That is precisely the course that Ms Sylvia Hale is following. These allegations cannot be raised or responded to in any way other than that in which the member is currently proceeding. If she were to ask questions the Government would object.

The Hon. Tony Kelly: She can ask questions about them.

The Hon. CATHERINE CUSACK: In terms of raising these allegations in debate, the member would be ruled out of order pursuant to the standing orders, which are frequently relied upon by the Government.

The Hon. Tony Kelly: She has asked questions and I have answered them.

The Hon. CATHERINE CUSACK: In relation to raising these allegations in debate, the member would be ruled out of order. It is clear to all members, as we are constantly reminded by Government members and the President, that such matters must be raised by way of substantive motion. Ms Sylvia Hale has quite properly done so. It is very much in the Minister's interests to be able to respond to these serious allegations. This is the correct way to raise them and to give him an opportunity to respond. The House deserves some answers.

The Hon. GREG DONNELLY [11.51 a.m.]: I will contribute briefly to this debate before we vote on the motion. I want to comment particularly on a point made by the previous speaker that this is the only way in which this matter can be ventilated in the House. The Hon. Catherine Cusack may not have been sitting through the same question times that I have in the last few sitting weeks.

The Hon. Catherine Cusack: With all those points of order?

The Hon. GREG DONNELLY: No, in terms of questions from Ms Sylvia Hale on and around this issue. In relation to those questions, I have heard nothing but very clear responses from the Minister. Members use question time to ask questions and answers are given to those questions. Now it is claimed that this is the only way possible for the House to deal with this matter. It is said that if the House does not deal with this matter today, 23 June 2010, a stench will hang over the House that will affect all members and will bring the reputation of the Legislative Council into disrepute. I refer members to paragraph 4 of Ms Sylvia Hale's motion, which follows very long paragraphs outlining her position. Paragraph 4 lists the fundamental claims within the censure motion and states:

4. That this House censures the Minister for Planning because:

- (a) he deliberately or recklessly misled the House as to the number of complaints he had received about Cessnock Council,

This allegation has been made by Ms Sylvia Hale inside the House and I believe comments have been made outside the House. Those allegations have been refuted completely by the Minister. Paragraph 4 continues:

- (b) he has continued to make public statements about Cessnock Council that he knows to be false, and

The Minister, both inside and outside the House, has responded essentially to claims made by Ms Sylvia Hale.

Dr John Kaye: Point of order: I am surprised to hear the Hon. Greg Donnelly say this, given that the Government Whip—

The PRESIDENT: Order! Is the member making a debating point or taking a point of order?

Dr John Kaye: I am taking a point of order. The Hon. Greg Donnelly is debating the substantive issues of the motion. He is not addressing urgency. The member spends most of his time in the House taking points of order against other members, wasting their time and trying to destroy their ability to contribute to debate.

The PRESIDENT: Order! I remind the Hon. Greg Donnelly that at this stage he must address only the matter of urgency.

The Hon. GREG DONNELLY: That is precisely what I was endeavouring to do before I was interrupted by Dr John Kaye. I am talking about the part of the resolution that takes us to the essence of what Ms Sylvia Hale is trying to do, which is basically a bucket job on a Minister of this House.

The Hon. Catherine Cusack: Point of order: The Hon. Greg Donnelly just said, "I am talking about the part of the resolution". That is exactly what he should not do. He should not talk about the resolution; he should talk about urgency. I urge that he be brought back to the matter before the House and not flout the rulings.

The PRESIDENT: Order! I remind the Hon. Greg Donnelly that he should speak to the matter of urgency. However, in doing so he is not precluded from speaking about parts of the motion.

The Hon. GREG DONNELLY: Paragraph 4 (c) states:

- (c) his actions in relation to Cessnock Council are manifestly unreasonable.

Members must look at those three elements of paragraph 4 in the context of the other parts of the resolution and, significantly, the agenda of Government business, which Ms Sylvia Hale knows we have to deal with today.

The Hon. Catherine Cusack: Point of order: The Hon. Greg Donnelly is disgracefully flouting the ruling. He continues on and puts parts of the resolution together immediately after he has been asked not to do so. I asked that he be brought back to the matter before the House.

The PRESIDENT: Order! I do not uphold the point of order. I advised the Hon. Greg Donnelly that he should speak to the matter of urgency but he was not precluded from referring to parts of the motion. The member may continue.

The Hon. GREG DONNELLY: Clearly, Ms Sylvia Hale knows that we have a large amount of Government business that needs to be dealt with today. Therefore, I urge the House to vote against this motion. [*Time expired.*]

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

Mr Ajaka
Mr Clarke
Mr Cohen
Ms Cusack
Ms Ficarra
Mr Gallacher
Miss Gardiner

Mr Gay
Ms Hale
Dr Kaye
Mr Khan
Mr Mason-Cox
Reverend Dr Moyes
Ms Parker

Mrs Pavey
Mr Pearce
Ms Rhiannon
Tellers,
Mr Colless
Mr Harwin

Noes, 20

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

Pair

Mr Lynn

Mr Hatzistergos

Question resolved in the negative.**Motion negatived.****Pursuant to sessional orders business interrupted at 12 noon for questions.****QUESTIONS WITHOUT NOTICE**

FILM AND TELEVISION INDUSTRY

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Treasurer, Minister for State and Regional Development, and Special Minister of State. When was the Treasurer made aware that the Department of Industry and Investment was a sponsor of a party at the Tunnel nightclub in support of the television series *Underbelly*? What specific sponsorship has the Government offered to this event, and will the department be represented at the event? Have issues concerning the content of *Underbelly* and how it reflects on corruption and the glorification of criminals in New South Wales been factors in determining the Government's support for the series and parties in support of the series?

The Hon. ERIC ROOZENDAAL: Let me be quite clear. I am advised that the New South Wales Government was not involved in any way in organising the DVD launch or in choosing the venue or funding this function. This story is so old that it was in the *Sydney Morning Herald* three weeks ago. *Underbelly 3* was supported through the New South Wales Government's Film and Television Industry Attraction Fund. The production generated more than \$12 million in film industry work and employed more than 250 cast and crew. The New South Wales Government's support was critical to ensuring the series was filmed in Sydney.

The fund assesses applications on the basis of their contribution to the employment created and the level of production expenditure in New South Wales. It is a condition of funding that the New South Wales Government receives a credit. It is standard practice for funding agencies to be acknowledged on DVD covers as well as in the program credits. Previous series received funding from Screen Australia and Film Victoria. I am proud that New South Wales supports film production. That is why in the budget we announced a \$25 million funding boost to attract Australian and major international film and television production to New South Wales. The funding comprises an additional \$20 million in screen incentives to attract large-scale production to New South Wales and \$5 million for Screen NSW's Production Investment Fund to support local productions.

The Hon. Rick Colless: Are you going, Eric?

The Hon. ERIC ROOZENDAAL: Just to keep the noisy member over there happy, I can inform the House that I was not invited to the function and I do not intend to go to the function.

SYDNEY OLYMPIC PARK V8 SUPERCAR RACE

The Hon. TONY CATANZARITI: My question is directed to the Treasurer, Minister for State and Regional Development, and Special Minister of State. Would the Treasurer update the House on the success of the V8 race at Sydney Olympic Park and the Audit Office inquiry into the event?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his interest in this very important event for the people of New South Wales. As members may be aware, today the Auditor-General released a review of the V8 Supercar event held at the Sydney Olympic Park in December last year. I welcome the report. I also note that Industry and Investment New South Wales has taken on board the recommendations in the report. I look forward to this year's event, which will be bigger and better.

The Audit Office report rightly found that the inaugural three-day V8 Supercar event at Sydney Olympic Park was proclaimed a success. The event clearly met two New South Wales Government State Plan objectives: increased business investment and increased visitor nights. Considerable economic, social and community impacts were generated by the event. More than 85 per cent of the capital funding from the Government was spent with New South Wales companies. The fact that the event made considerable use of Sydney Olympic Park—a defined entertainment and sporting precinct since the 2000 Sydney Olympics—is itself a great benefit to Sydney and New South Wales.

V8 Supercars Australia advises that its records show that more than 184,000 spectators attended the Sydney Telstra 500. That included more than 15,000 interstate visitors and 1,200 international visitors. The Sydney Telstra 500 is well on track to provide an economic benefit of a contribution to the gross State product of up to \$100 million over the five years of the event.

The event is expected to contribute up to an additional 30,000 hotel visitor nights in Sydney. An additional \$1.1 million in payroll taxes will be generated by the V8 event over five years. In addition to the significant event attendance and economic benefit, the Sydney Telstra 500 was broadcast live on the Seven Network for 11 hours across the Saturday and Sunday, was aired live in New Zealand and a further 2.5 hours was broadcast on Seven in post-production shows. The broadcast was distributed both live and by tape delay to more than 110 international television subscribers worldwide. In addition to this, Fox Sport's Speed Channel in the United States showed the full replay to a potential audience of more than 79 million subscribers on the following weekend.

I am advised that Industry and Investment NSW has noted each of the recommendations put forward by the Auditor-General and they have not been questioned or challenged. I am also advised that in future the department will utilise the intent and principles of the recommendations to ensure a more coherent strategy for approaching and assessing major events when they are undertaken by the department, which will better justify the use of taxpayers' funds for major events.

Planning for the 2010 Sydney Telstra 500 is now well underway and it promises to continue to build on the success of the 2009 event—it will be even bigger and better. The Homebush Motor Racing Authority and V8 Supercars Australia are continuing to work with all stakeholders and residential community groups in the Sydney Olympic Park precinct in the lead-up to the 2010 event. The Sydney Telstra 500 V8 Supercars race has reaffirmed that Sydney is the major event capital of Australia and the Homebush Motor Racing Authority is expecting a hugely successful event again in December 2010. I certainly look forward to being at the V8s again in a few months to enjoy all the excitement and fun that they bring to the people of Sydney.

SYDNEY OLYMPIC PARK V8 SUPERCAR RACE

The Hon. DUNCAN GAY: My question without notice is directed to the Treasurer. I note from his answer to the previous question that the Treasurer is aware that the Auditor-General today released his report on the Government's investment in the V8 supercar races at Sydney Olympic Park. However, he appears unaware that the Auditor-General stated:

The V8 major event is not a financial success for the Government. The five races are estimated to cost \$10 million more than planned and provide nearly 25% fewer benefits than expected ... Government involvement in major events in NSW needs to be better managed.

Given the hundreds of millions of dollars the Government has already wasted on other failed infrastructure projects, how does the Treasurer explain this latest \$10-million blowout—the cost went from \$35 million to \$45 million—to the taxpayers of New South Wales?

The Hon. ERIC ROOZENDAAL: This is yet another demonstration of the Opposition's failure to understand basic finances or even to be able to read a report. The Auditor-General referred to \$7 million of value in-kind costs that he has attributed to other government agencies. This was not a charge to the Government nor an additional cost overrun.

FOOD PRODUCTION PRACTICES

Reverend the Hon. Dr GORDON MOYES: My question without notice is directed to the Minister for Planning, representing the Minister for Primary Industries. Is the Minister aware of the latest report of the United Nations International Panel of Sustainable Resource Management that calls for a worldwide turning away from the use of intensive animal production of feedlots to reduce the impact of agriculture on the environment? Is the Minister aware that more than half of the world's crops are fed to domestic animals intended for the market rather than to starving people who have access neither to the grain nor to the meat? Can the Minister indicate ways to encourage the agriculture sector towards more sustainable consumption and production practices?

The Hon. TONY KELLY: I will pass the question to the Minister for an answer. However, feedlots are an efficient way of producing meat for the export market, and obviously to some of the people to whom the member referred who have trouble getting food supplies. The vast majority of our feedlot meat is destined for export. In fact, quite a number of overseas companies have invested in feedlots in this country. It is an appropriate and efficient way to stock with grain, and cattle in particular.

GALLIPOLI ARCHAEOLOGICAL PROJECT

The Hon. LYNDA VOLTZ: My question is directed to the Minister for Planning. Can the Minister update the House on the success of the survey Project Beneath Gallipoli, which received sponsorship support from the New South Wales Government?

The Hon. TONY KELLY: Just prior to Anzac Day this year the Premier announced key support funding of \$21,000 for the Beneath Gallipoli archaeological project. I am pleased to report that the private volunteer survey has returned from Gallipoli with some spectacular results. Headed by the Planning Department's Heritage Branch Deputy Director Tim Smith, in his private capacity, the joint Australian-Turkish team has completed the first systematic archaeological recording of the unique underwater landscape of the 1915 Gallipoli battlefield. I should point out that everyone on the team was a volunteer.

The Keneally Government's funding has been well rewarded. The team has returned with some sensational discoveries. For the first time since the battle 95 years ago, the seabed adjoining the famous beaches around Anzac Cove—Brighton Beach, North Beach and Suvla Bay—have been systematically mapped. Tim Smith's team included Mr Selcuk Kolay AO, the discoverer of the wreck of the Australian submarine *AE2*, along with Turkish filmmaker Savas Karakas and his Turkish dive team. Their work has led to some unique discoveries. One wreck previously known inside Suvla Bay to the north of Anzac Cove was proved to be the remains of the British destroyer, HMS *Louis*. That naval vessel ran aground in October 1915 and was destroyed by Turkish gunfire from batteries. The extensive offshore side scan sonar mapping revealed two new shipwrecks never seen before. This is an incredibly important discovery. These barges were used to supply the Anzac troops ashore and from historic photographs we can see they were used to carry wounded diggers off the beaches to offshore hospital ships.

While one wreck was well known to local Turkish fishermen, it had never been dived before. Lying in 55 metres of water more than one nautical mile directly off Anzac Cove, the iron barge is almost completely intact. There was no evidence of why it had sunk, but it was found to be empty of any contents. The other barge detected by the sonar survey lies off the entrance to Suvla Bay, but could not be dived before the expedition team had to depart.

Many hours were spent mapping Anzac Cove in minute detail. A number of features, such as concrete pier footings, mooring blocks and rubble, were mapped and markers of former piers, now destroyed, were positioned. This work included the accurate plotting of smaller relics, including British .303 rifle ammunition and pottery fragments from British Army issue rum jars. Perhaps the most powerful relics documented were small lead balls that were found across Anzac Cove. They are a reminder of how the devastating Turkish shrapnel shells once made this picturesque diving area a daily killing ground. A series of pontoon wrecks inside Suvla Bay were inspected. Team member Bill Sellars believes they belong to the Royal Australian Naval Bridging Train in charge of stores and water supply. For the first time, a tangible record is being formed of the Navy's presence on the Gallipoli peninsula.

The project has confirmed that the archaeological remains underwater are among the best preserved of the wider battlefield. The team of passionate volunteers has shown that we still do not know everything about

Gallipoli. There are still sites and relics to be found and documented and stories to be revealed. I am pleased that the Government's funding enabled the team to complete their mission, which was at risk of having to be cancelled.

KINGS CROSS INJECTING ROOM

Reverend the Hon. FRED NILE: I ask the Hon. John Hatzistergos, representing the Premier, a question without notice. Can the Government confirm that KPMG has been tasked with conducting an inquiry of the trial injecting room at Kings Cross? What are the terms of reference for the inquiry? Do the terms include the impact on drug consumption in the area due to the honey pot effect? Do the terms include the impact on police operations due to the no-go police area, and how many referred individuals completed the rehabilitation program and are free from drugs?

The Hon. JOHN HATZISTERGOS: I will refer the matter to the Premier. I know the honourable member has a longstanding opposition to the medically supervised injecting room notwithstanding the fact that it has been evaluated on a number of occasions and the impacts have overwhelmingly been proved to be positive. I hope that when the analyses are released for public debate the honourable member might take an approach to it that recognises there are different perspectives and, in particular, not every drug user can necessarily be rehabilitated through one particular means. It is a complex issue and people respond to different methods of being able to be treated.

One thing I do know is that the carnage of people who were found in the streets in Kings Cross as a consequence of overdoses and who died, and the misery that caused to many of their loved ones, has by and large stopped. That is an outcome that has even been acknowledged by the Leader of the Opposition notwithstanding some other criticisms he made recently. I would have thought for any person who looks at this matter objectively that would be a good thing.

SUPERANNUATION EARNINGS AND LIABILITY

The Hon. GREG PEARCE: I direct my question to the Treasurer and refer him to the statement in the 2010-11 budget that the investment earning rate, post-tax on superannuation assets, has been raised to 8.6 per cent. This rate is significantly higher than the 7.3 per cent to 8.3 per cent range used by Mercer in its triennial valuation carried out in 2009. Given that Mercer assessed that each 1 per cent variation in the earning rate of superannuation assets represents around a \$4.5 billion change in the superannuation assets valuation, is the Government not using an unrealistically high earning rate to hide the true superannuation liability and to justify the continued underfunding of payments against the liability and the payment of part of the lotteries sale proceeds against the liability as a means to distract attention from the unrealistic assumptions that I have mentioned above?

The Hon. ERIC ROOZENDAAL: I am impressed that the honourable member managed to get his head around the fact that we took \$510 million from the sale of lotteries and put that into unfunded liabilities, superannuation liabilities, because clearly the shadow Treasurer in the other place could not get around that and believed it was a recurrent payment, which was completely wrong. While I am on the subject of things the Opposition gets wrong, this was just one it got wrong. It forecast a year ago that we would be in deficit for years to come and here we are back in the black two years earlier than forecast—back in surplus two years earlier than forecast. We have made it abundantly clear that we are on track to fully cover the issue of unfunded superannuation liabilities by the year 2030. We advised in the budget that that target stays on track. The numbers used in the budget are the latest as advised by Treasury and are appropriate.

INFORMATION AND PRIVACY COMMISSIONERS

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Attorney General. Will the Attorney General please update the House on the proposed changes to the information and privacy commissioners in New South Wales?

The Hon. JOHN HATZISTERGOS: We live in an era where one of the responsibilities of government is to ensure appropriate management of information. There are two limbs to this. First, individuals need to be able to access information from government on issues in which they have a stake. Secondly, government needs to provide a robust framework to protect the privacy of information about individuals. The Government is serious about driving cultural change throughout government and the bureaucracy towards

greater openness and transparency in government while at the same time ensuring confidentiality of personal information. To this end, we have created the independent and well-resourced position of Information Commissioner, to which Ms Deirdre O'Donnell has been appointed for a five-year term, commencing on 10 May 2010.

The Information Commissioner joins the Privacy Commissioner, established in 1999 which has responsibility for the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002. The Government has also established an entirely new framework for the release of government information, with a fresh focus on proactive disclosure under the Government Information (Public Access) Act 2009. Now that agencies have had adequate time to prepare for the requirements of this legislation and the Information Commissioner has taken up her functions, the Act can be commenced. That will occur on 1 July 2010.

With the positions of Information Commissioner and Privacy Commissioner established, the next step is to properly coordinate their activities so as to ensure the best possible service for members of the public seeking assistance on information and privacy matters. As honourable members would appreciate, when members of the public are seeking information relevant to their individual circumstances it is not always clear whether those applications should fit under privacy legislation or freedom of information protocols. Indeed, in certain circumstances, individuals may require information which technically fits into both categories. That is why the Government will this week introduce legislation to bring the Information Commissioner and the Privacy Commissioner together into a single executive body, the Information and Privacy Commission.

The distinct roles of Information Commissioner and Privacy Commissioner will remain. What we will be doing through these laws is creating a unified administrative hub, a one-stop shop for information management in New South Wales. Through ensuring that members of the public need only to make contact with a single agency we will deliver greater efficiency and lessen the bureaucratic exercise of multiple applications. It is a practical expression of the Government's clear position in favour of making it easier for individuals to access information they need. These reforms follow a report by the New South Wales Law Reform Commission in 2009 entitled "The Offices of the Information Commission and Privacy Commissioner".

While the Law Reform Commission recommended that functions relating to information and privacy be brought together into a single office, the model it proposed would have had the Information Commissioner as the head of the office, with a Privacy Commissioner acting as deputy. In cases of divergence between the Information Commissioner and the Privacy Commissioner, the decision of the Information Commissioner would have prevailed. The Government did not accept that approach. It would have amounted to a demotion of the importance of the Privacy Commissioner. Instead, we will retain the Privacy Commissioner as a strong champion of privacy in New South Wales, while also taking the practical step of streamlining processes for members of the public by unifying the administrative functions of both commissioners. The Government is proud to be taking the next step in giving effect to our commitment to sensitive and appropriate management of both government and private information. Our commitment to open government demands no less.

GOSFORD TRAIN HORN NOISE

Ms LEE RHIANNON: I direct my question to the Minister for Transport. Is the Minister aware that since February this year residents living near Gosford station between Brian McGowan Bridge and Bluetongue Stadium have been subjected to higher levels of noise when train air horns are turned on? Further, is the Minister aware that many of these residents are regularly woken up and often cannot sleep because of noise levels similar to what occurred on 15 May, when they were subjected to four blasts at 2.18 a.m.; another four at 2.30 a.m.; one horn blast at 2.37 a.m.; six blasts at 4.14 a.m. and 10 blasts between 5.00 a.m. and 5.30 a.m.? Was advice sought and received from noise and sound experts with respect to the impact these high noise levels will have on residents? If so, will the Minister publicly release this information? If not, why not? What steps is the Minister taking to ensure the high noise levels locals are exposed to are reduced so that train operations can continue at the noise levels emitted before February this year?

The Hon. JOHN ROBERTSON: Train horns play a role in warning passengers and rail workers of potential risks on the network. Prior to taking a train into service a driver tests the key components of the train's safety equipment to ensure it is in working order. This includes the train horn. I am aware that residents close to Gosford station have complained about an increase in horn usage at Gosford stabling yard. In response to the complaints I have asked RailCorp to review its use of horns in Gosford. I am advised that RailCorp has met with affected residents and is examining ways to reduce the noise impact of stabled trains. I am comfortable for RailCorp to look at further options to minimise noise in Gosford as long as safety standards are upheld.

DEPARTMENT OF CORRECTIVE SERVICES PURCHASING POLICY

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Planning, representing the Minister for Corrective Services. Can the Minister outline what is the net value of contracts to Bathurst businesses that will be lost through the decision by the Department of Corrective Services to stop sourcing a wide range of supplies, including work wear, bedding and electrical goods, from local Bathurst businesses?

The Hon. TONY KELLY: I thank the member for his question and undertake to pass it on to the Minister responsible.

COMPANION CARD

The Hon. HELEN WESTWOOD: My question is addressed to the Minister for Ageing, and Minister for Disability Services. Can the Minister outline what the New South Wales Government is doing to assist people with a disability who need a carer to better participate in the community?

The Hon. PETER PRIMROSE: The New South Wales Government introduced the Companion Card to assist people who always or usually require the assistance of a carer in their daily lives to access the community. The Companion Card recognises that a carer is indispensable to the daily life of a person with a significant and lifelong disability. The program commenced on 1 March last year. The card is free. It is not means tested. Eligibility for the card is based on the needs of a person with a disability. It is estimated that the Companion Card will make it easier for about 25,000 people in New South Wales to better access the community, everyday services and events.

In addition to public buses and trains, there has been strong support for the card from the private sector, particularly entertainment and sporting businesses, for example, museums, swimming pools, theatres and cinemas. A person with a disability and their carer are now able to catch the train into the city, and also able to enjoy the theatre or cinema for the price of a single ticket. Many businesses have signed up as partners or affiliates to this initiative. There are now more than 1,880 participating organisations across the State. Businesses that have recently come on board include ANZ Stadium, Netball Australia, the Football Federation of Australia, YMCA Australia, New South Wales clubs and activities, V8 Supercars, Bathurst 1000 and Sydney 500. The National Disability Service administers the program on the Government's behalf. More information about the Companion Card can be found on its website at www.nswcompanioncard.org.au or by calling 1800 893 044.

Recently I had the pleasure of visiting the recipient of the 5,000th Companion Card. It was issued to a young woman from Horsley named Tiffany. Tiffany has cerebral palsy and significant issues caused by a stroke at birth. She lives with her mother, who is her primary carer, and with the assistance of the Companion Card Tiffany enjoys ten pin bowling, going to the movies and shopping. Recently, it was my great pleasure, along with the member for Shellharbour, Lylea McMahon, to meet with Tiffany and her family. There are now more than 6,380 Companion Cardholders within New South Wales and this number continues to grow. Ageing, Disability and Home Care has received positive feedback from the public about this program. One individual who expressed her thanks upon receiving her new Companion Card said:

I am writing to thank you for your prompt and friendly attention to my application. Today I received my Companion Card in the mail. Despite being told it would probably take six to eight weeks processing time, it took only about a quarter of this estimation. Not only that, staff from Ageing, Disability and Home Care also kept me in the loop with my application through emails as well as phone calls. Thank you for making my application so easy.

There has also been some much-appreciated positive feedback from a broad spectrum of the sector. The national convener of Carers Alliance, Nell Brown, commented in a local newspaper that she thought the scheme was "totally brilliant". The Companion Card Program has been an outstanding success and I urge all honourable members to seek to get the message out to the community about its availability.

NATIVE VEGETATION PROTECTION

Mr IAN COHEN: My question is directed to the Minister for Planning. In new local environmental plans [LEPs] that have been gazetted and those currently with the Minister awaiting approval, how many hectares of native vegetation previously contained in areas zoned rural-residential in the old local environmental

plans now exist in R5—large lot residential—zones and as such are no longer subject to the protection of the Native Vegetation Act? When will the Department of Planning determine whether the Native Vegetation Act will apply to the R5 zone?

The Hon. TONY KELLY: The question would have been better placed on notice. Obviously I do not have in my mind the detail of plans that have been approved and of others that have not yet reached me. However, I undertake to obtain some information for the member.

TORRENS ASSURANCE LEVY

The Hon. DAVID CLARKE: My question without notice is directed to the Minister for Lands. What is the Minister's response to the article in Saturday's *Sydney Morning Herald* that reported that the revenue generated from the Torrens assurance levy will be directed into consolidated revenue despite the Minister's comments that this levy was introduced to fund increased security measures for land transfer documents through the Torrens Assurance Fund?

The Hon. TONY KELLY: I remind the member that I have consistently said that any amount of money over the amount used for the Torrens Assurance Fund will go into consolidated revenue to fund other government undertakings. I repeat what I said in the past: Up until 1 July when this is introduced, everybody in New South Wales who transferred a block of land had an assurance—or insurance, if you like—against fraud in relation to that transaction regardless of whether the land was worth \$500 or \$500 million. No other insurance offers a flat rate regardless of the value covered. It is appropriate that this be an ad valorem levy. The Government has ensured that it is restricted to only transactions of \$500,000 and above so that it does not affect more than 70 per cent of the transactions that are put through the Land Titles Office each year. Obviously the fund is important. At present the department is assessing something like \$20 million worth of potential liabilities. I sign a number of these every year to cover incidents of fraud. There is also a fund to cover fraud involving the legal profession.

SOUTH WEST RAIL LINK

The Hon. SHAOQUETT MOSELMANE: My question is addressed to the Minister for Transport. Can the Minister update the House on the construction of the South West Rail Link?

The Hon. JOHN ROBERTSON: I thank the honourable member for his question and his interest in this fantastic project. I will take every opportunity to speak in this House about the construction of the South West Rail Link. As members on this side are aware, the Government is investing \$2.1 billion to improve public transport in south-western Sydney with the construction of a brand new 11.4 kilometre rail line between Glenfield and Leppington. The South West Rail Link project also includes brand new stations and commuter car parks at Leppington and Edmondson Park and a new train stabling facility at Leppington; a major transport interchange to Glenfield station, including a new platform, a new pedestrian footbridge and easy access lift facilities, as well as an upgrade to the bus and rail interchange in Railway Parade; rail flyovers to the north and south of Glenfield station; and an additional 570 commuter car parking spaces at Glenfield alone.

The South West Rail Link provides essential infrastructure for future population increases in Sydney's south-west growth centre. It will deliver new public transport services to an entire region of Sydney, servicing more than 110,000 homes in the south-west growth centre and the new Leppington town centre. Over the weekend construction on the South West Rail Link reached another significant milestone, with major work starting on the flyover to the north of Glenfield interchange. Similar work on the southern flyover is scheduled to commence over the next couple of weeks. These flyovers will have significant benefits for all rail users.

The northern flyover will allow the East Hills line to cross over the main south line, reducing existing constraints and improving capacity of the network. Equally beneficial, the southern flyover will pass over the existing main south line and the southern Sydney freight line, linking the new Glenfield to Leppington line into the existing network. Both flyovers are vital in improving the reliability of passenger train operations in the southwest.

The start of major work on the flyovers is the latest achievement in the ongoing construction of the South West Rail Link. Already the project has seen the opening of the 112-space Seddon commuter car park, construction happening on the Glenfield transport interchange, and work underway on the Glenfield multistorey

commuter car park. Construction is happening right now on the South West Rail Link. Just last weekend more than 200 people were on the ground working on the project, helping the Government build better public transport for south-western Sydney.

But this has not stopped the opposition trying to pull the wool over the eyes of the people in south-western Sydney by promising to start—yes, that is right, start—construction on the South West Rail Link in the first term of a Liberal government. I hate to remind the Opposition of the small, inconvenient truth that work on the South West Rail Link started in August last year. I guess that is what happens when you live in the leafy suburbs on the North Shore: you do not know what is going on in south-western Sydney. Construction of the project started almost a year ago. This shows how the cynical members of the Opposition treat the electorate. They think they can simply close their eyes, bury their heads in the sand, and pretend that work has not started on the South West Rail Link—then they can turn the work of the New South Wales Government into some kind of Liberal election promise, as though construction has not already started. It is a joke that the Opposition would treat the people of south-western Sydney like that, and the Opposition is a joke for even trying. Maybe it is time members opposite got off the couch and caught a train to Glenfield to see what is happening on the ground right now with regard to the South West Rail Link. The leafy suburb dwellers opposite would see— *[Time expired.]*

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

The Hon. JOHN ROBERTSON: If members opposite got off the couch, they would see that work on the South West Rail Link is underway right now. They should leave their leafy suburbs and go out to Glenfield to see the work. They would see the South West Rail Link taking shape before their eyes. They would then have to admit that their promises are false, and that the South West Rail Link is already underway. Members opposite know that the Opposition has to do better than simply rehash the Government's infrastructure projects as its own.

The PRESIDENT: Order! The Deputy Leader of the Opposition will cease interjecting.

TAMWORTH HOSPITAL REDEVELOPMENT

The Hon. TREVOR KHAN: My question without notice is directed to the Treasurer. Is the Treasurer aware that in 2007 the then Premier, Morris Iemma, promised a redeveloped Tamworth hospital in this term of government? Is the Treasurer aware that the Clinical Services Plan was completed in March 2009 and it set out recommendations of what was to be included in the redeveloped hospital? In announcing the 2010-11 State budget, why was there no line item allocating funding for the redevelopment of Tamworth hospital?

The Hon. ERIC ROOZENDAAL: I am more than happy to talk about what was provided in the budget. This Government will invest a record \$16.4 billion in better health services for the people of New South Wales as part of the 2010-11 budget. This is an increase of 8.6 per cent on last year's budget. This is a record recurrent investment of \$15.5 billion, equating to \$2,124 for every person in New South Wales. This is a budget that builds on the historic agreement we achieved with the Commonwealth Government on health reform—health reforms that were opposed by the Opposition.

The Hon. John Hatzistergos: Like Tamworth Hospital.

The Hon. ERIC ROOZENDAAL: Exactly. This budget delivers new beds. The combined new State and Federal funding will see the establishment of 380 acute care beds and 105 subacute care beds in the 2010-11 financial year. An additional \$117 million will be invested to meet projected increases in demand for emergency department services, and \$536 million extra will enable us to care for an increasing number of acute patient admissions. Funding for mental health will reach \$1.23 billion this year. Our investment in Caring Together will increase to \$125 million in 2010-11 as part of a \$485 million investment over four years. The budget includes a \$101 million boost for rehabilitation and extended care services and a record \$408 million investment in ambulance services. The budget delivers a record capital investment in health infrastructure of \$918 million, 52 per cent higher than in 2009-10, building on the Government's proud record of investment in health and hospital infrastructure.

In the last five years we have invested more than \$3.5 billion in health infrastructure. Since 1995 we have upgraded almost every major hospital and emergency department across New South Wales. The budget includes access to health services for patients. Major funding for new health services in 2010-11 includes

\$53.8 million to perform more elective surgery, \$8.4 million for an additional six adult intensive care beds across New South Wales and for staffing specialised equipment, \$5.3 million in additional funding for intensive care beds for children and special care nursery cots for unwell babies across the State, and \$5.1 million for the expansion of radiography services across the State and the employment of 23 specialist staff to provide enhanced services at Gosford, Nowra, Wollongong, Liverpool, Lismore and Port Macquarie.

This is a budget that delivers a massive investment in health infrastructure. At Liverpool, \$111.5 million has been provided to continue the major redevelopment of Liverpool Hospital; at Penrith, \$36.4 million has been provided for the expansion and upgrading of Nepean Hospital; and at Royal North Shore the Government is investing \$82.2 million towards the \$980.5 million Royal North Shore Hospital upgrade, the largest health capital works project in New South Wales's history, and another \$92 million has been allocated to the clinical services building. At Kogarah, we will commence work on the \$10 million upgrade at St George Hospital emergency department. A further \$5 million has been allocated in 2010-11 to begin the \$29 million stage one of northern beaches health services, development of the Frenchs Forest site, and associated works at Manly and Mona Vale hospitals.

We are investing in western Sydney as well, with a massive \$2.5 billion investment in Liverpool, Nepean, Auburn and Blacktown. We are investing \$11.1 million on the South Coast. This includes funding for surgery services at Wollongong Hospital, the expansion of renal dialysis services at Shellharbour, and the establishment of the Shoalhaven regional cancer centre. We are investing record amounts in regional and rural New South Wales, including investments in Orange Base Hospital and the \$10.5 million upgrade of Grafton Hospital.

ELECTRICITY ASSETS REVENUE

Dr JOHN KAYE: My question is directed to the Treasurer. Can the Treasurer inform the House as to the gross value of the projected revenue and tax flows to the New South Wales Government from the electricity assets and undertakings that are scheduled for transfer to the private sector? Is it correct that the value is in the order of \$7.6 billion to 2014 following the recent Independent Pricing and Regulatory Tribunal-approved price increases?

The Hon. ERIC ROOZENDAAL: That is a very detailed question, and obviously we are in the process of applying the energy reform strategy. The appropriate information will be put into the data rooms that will open on 1 July as part of the energy strategy reform, and we will continue with the process. But I have no intention of risking any part of the transaction by releasing any information, apart from through the appropriate processes managed through the data rooms.

Dr JOHN KAYE: I ask a supplementary question. Can the Minister elucidate his answer by explaining to the House why releasing the retention value to the State's finances of the electricity assets and undertakings would in any way undermine his proposed sale process?

The Hon. ERIC ROOZENDAAL: I refer to my previous answer.

BURIAL CHOICES

The Hon. IAN WEST: My question is addressed to the Minister for Lands. Can the Minister advise the House how the Government is offering more economical and more environmentally friendly burial choices?

The Hon. TONY KELLY: On Thursday last week I joined Most Reverend Julian Porteous, the Auxiliary Bishop of Sydney, along with members of the Catholic Cemeteries Board, to officially open St Francis Field—Sydney's first natural burial ground. Situated within the Kemps Creek Cemetery in Sydney's west, the natural burial ground is appropriately named after the patron saint of the environment—I am sure the Greens are aware of this—St Francis of Assisi. Sydney's first natural burial ground is a positive initiative of the Catholic Metropolitan Cemeteries Trust, a Crown Reserve Trust, to which I gave approval to purchase Kemps Creek cemetery in 2007. This is a timely initiative.

Natural burial is an increasingly popular option throughout the Western world for individuals, particularly families looking for low-impact, environmentally friendly burial options. Put simply, natural burial grounds are more environmentally friendly than traditional burials or cremation. They are designed to blend back into the natural setting of the field. This reduces the need for manicured grounds and reliance on

chemicals, creating a low-carbon option. The burial is in a biodegradable coffin, with none of the monumentation associated with traditional burials. Instead, the latest GPS technology is used to ensure that the location of the deceased is noted and recorded. Tenure is also limited to 30 years, with the option to renew if desired. These measures will make St Francis Field a sustainable burial ground for generations to come. The Keneally Government applauds the initiative of the Catholic Metropolitan Cemeteries Trust at Kemps Creek and sees this as the first of a number of natural style burial grounds in Sydney. Although this is a first for Sydney, I understand there is already a natural burial ground at Lismore—the Bushland Cemetery.

We often hear about the benefits of leaving a low-carbon footprint during our lives. With natural burial there is an option to continue this into the next life. It is offering yet another choice for individuals and families who want to leave this world quietly and in the most natural manner possible. I am advised that being natural in this case does not come with a more expensive price tag. Natural burials at Kemps Creek are significantly more economical than traditional burials. The Keneally Government fully supports innovative and sustainable management of this scarce resource. I emphasise that there is a need for traditional style burials and people should always have that choice, but we need to provide a number of options to ensure that families have a range of affordable and accessible choices when it comes to farewelling their loved ones.

The Government is working with industry in looking not only for new greenfields sites, but also at sustainable use of existing cemeteries through the possible introduction of limited and renewable tenure within Crown cemeteries. St Francis Field, on a freehold cemetery, is based on the principle of limited and renewable tenure, where families purchase a 30-year burial right with the option to renew. It is not only an affordable option; it will also ensure that the burial ground can serve the community for generations to come. This follows a practise used in the United Kingdom, Tasmania and Lismore, but it is a first for Sydney. I extend my congratulations to all involved in establishing St Francis Field. I am sure it will be the first of many to come.

MERRYLANDS DEVELOPMENT PROPOSAL

Ms SYLVIA HALE: I direct my question to the Minister for Planning. Last year the State Government assisted Holroyd council in planning a major new commercial and residential development next to the Merrylands town centre, and agreed that an exemption to the cap on section 94 charges was justified to fund large drainage and roadside works needed to overcome a flooding problem. Given that that exemption has now been removed and if the council is to carry out the work it will find itself in debt to the tune of \$12.8 million, the alternatives faced by the council are either not to undertake the work or to do so but only by doubling the rates paid in that precinct. What will be the impact of this on jobs creation in that area if either the council discontinues the work or has to increase its rates to the point where small businesses will be deterred from moving into the area?

The Hon. TONY KELLY: I thank the member for her question. Once again the member has included in her question allegations rather than fact. I do not know, nor can I confirm, whether any of what the member has said is correct. I will be having meetings with councils from western Sydney to look at any issues they might have. Officials from the Department of Local Government, the Department of Planning and Treasury will visit each of those councils to ascertain the facts.

The Government has to do something about house prices in Sydney, which increased by 9 per cent last year and are expected to rise, according to the latest survey, by 21 per cent in the next two years. It does not take a mathematician to work out that that equates to 30 per cent the cost of a home—almost one-third—and that is getting out of the reach of most people in this State. It is not happening in the other States; housing in other States is much cheaper. In Victoria, for example, section 94 charges do not exceed \$10,000. The Government is taking firm steps to ensure that we can make houses more affordable and place downward pressure on housing prices. That is but one of the many issues brought forward by the Treasurer in the budget. The Treasury said yesterday that some \$44 million has been given to planning. The majority of that—\$35 million—will be passed on to councils.

The Hon. Matthew Mason-Cox: Which council areas?

The Hon. TONY KELLY: A number of councils. For example, \$20 million of that amount is a reward for councils that are able to achieve their housing targets. They could be anywhere. For example, Kuring-gai.

The Hon. Matthew Mason-Cox: How many country councils?

The Hon. TONY KELLY: Any council that exceeds its housing target will be eligible for a share. An amount of \$10 million has been provided to help councils speed up their local environmental plans to try to get development and housing moving in this State, and \$2 million has been allocated to bring forward more areas for development. By and large the Government is attacking the issue of escalating housing prices on a number of fronts and intends to continue to work for the people of western Sydney to drive housing prices down. For the member's benefit I reiterate that there needs to be between 25,000 and 35,000 homes built each year for the next 30 years to accommodate increases in the State's population—

The Hon. Greg Pearce: In the State or in Sydney?

The Hon. TONY KELLY: In Sydney. It is expected that the age group above 65 will increase by 224 per cent in 25 years time. Over the next 25 years the number of people in the age group 1 to 18 years will increase by approximately 19 per cent, the number of people aged 19 to 64 years will increase by approximately 22 per cent, and the population of those above the age of 65 will increase by 224 per cent. Those people have to be accommodated somewhere and the Government is taking strategic action to ensure that that can be done.

CONCORD HOSPITAL AFTER-HOURS GENERAL PRACTITIONER CLINIC PROPOSAL

The Hon. DON HARWIN: I direct my question without notice to the Leader of the Government, representing the Minister for Health. Why has the Government not yet allocated funding for an after-hours general practitioner clinic at Concord Repatriation General Hospital given that it was promised by the member for Drummoyne during the 2007 election? Does the Government still intend to build an after-hours general practitioner clinic at Concord hospital? Will the Government advise when that work on the clinic is expected to commence, when it is expected to be completed, and what the cost of the clinic is now expected to be?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Health for a response.

STATE INVESTMENT ATTRACTION

The Hon. KAYEE GRIFFIN: I address my question to the Treasurer, Minister for State and Regional Development, and Special Minister of State. Will the Minister update the House on the latest good news on investment attraction for New South Wales?

The Hon. ERIC ROOZENDAAL: More good news for the people of New South Wales and more good news for the State economy. Yesterday, on behalf of the people of New South Wales and the New South Wales Government I signed a memorandum of understanding with a major Chinese company, the Bright Food Group, and the China Development Bank. Bright Food Group is a state-owned company based in Shanghai and was established in 2006. It is the largest food company in eastern China and operates four large-scale farms near Shanghai and three other farms in China.

The company has more than 3,300 retailing outlets and e-commerce networks in Shanghai and other provinces. The memorandum of understanding [MOU] is a significant development in our trade and investment ties with China. The memorandum of understanding acknowledges the potential for very substantial investment in New South Wales by Bright Foods. Under the memorandum of understanding, the New South Wales Government will assist Bright Foods with investment opportunities and removing red tape. The memorandum of understanding will also support New South Wales's business development in China. The China Development Bank Corporation is a State-owned financial institution that provides financing to leading Chinese companies for projects such as infrastructure, energy and transportation. It was established in 1994 and has 32 branches and four representative offices in China.

The memorandum of understanding with the Bright Food Group follows on from the Friendship Co-operation Agreement signed between the New South Wales Government and the Shanghai Municipal Government in 2008. These agreements are important elements in the New South Wales Government's Asian Engagement Strategy. New South Wales operates in a global economy. So it is important that we actively promote our strengths in the international marketplace to help create jobs and investment in our State. The New South Wales Government is doing just that: promoting New South Wales as a global destination for trade, investment, tourism and education. We have the resources, high-quality technologies, products and services that our major international partners want.

China is New South Wales's largest bilateral trading partner, with merchandise trade valued at \$20.5 billion in 2008-09. This is a \$3 billion increase on the previous year. We believe there are opportunities for further growth. That is why we develop these agreements and why the New South Wales Government has established two international business offices in China last year. The offices are in the important commercial centres of Shanghai and Guangzhou. The offices give us an on-the-ground presence in China and the capacity to build awareness of Sydney and New South Wales's strengths in financial services, infrastructure and construction, education and tourism services, and as a source of world-class products and services. This enables us to strengthen existing new business relationships and establish new ones, as well as closely monitor changing market conditions.

We are showcasing our strengths during the Shanghai World Expo, where New South Wales is a gold partner of the Australian Pavilion. The Premier will visit the expo next month to launch New South Wales Week at the pavilion and to explore job-generating projects for our State. This is yet another indication of how the New South Wales economy is going from strength to strength. We are leading all the other States through the recovery stage post the global financial crisis, and we will continue to do so. This comes on the back of the very well-received State budget that was brought down two weeks ago with \$62.2 billion being invested in infrastructure in New South Wales, supporting around 155,000 jobs each year. It also comes on top of our two cuts to payroll tax, making the State's payroll tax the lowest rate in more than 20 years. This Government is about supporting investment, jobs and economic growth in New South Wales.

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

LAKE BURRENDONG STATE PARK

The Hon. TONY KELLY: On 22 June 2010 the Deputy Leader of the Opposition asked a question without notice concerning the management of Lake Burrendong State Park. I now provide the following additional information to the House. Due to management problems at the park, the term of the former trust board was not renewed on 1 May 2009. An administrator was appointed, at which time a moratorium on the sale of on-site vans was imposed, as it was inappropriate to allow this to continue while the park was not properly licensed under the Local Government Act. Lake Burrendong State Park has now been licensed and, I am advised, Wellington Shire Council will deal with the licensing of the Mookerawa Water Caravan Park at its meeting in July 2010, after which the moratorium will be lifted.

The Hon. Duncan Gay: So the others can sell?

The Hon. TONY KELLY: Yes, anywhere in that licensed area. Site fees at the park historically have been low and have been raised to help provide the funds required to meet the significant licensing and compliance requirements under the local government legislation, including the installation of mandatory fire suppression infrastructure and water reticulation services.

METROPOLITAN CYCLEWAY PLAN

The Hon. JOHN ROBERTSON: On 19 May 2010 Reverend the Hon. Fred Nile asked a question regarding metropolitan cycleways of the then Minister the Transport and Roads, represented by the Treasurer. This question subsequently has been redirected to the Minister for Roads, whom I represent in this place. I am advised that the New South Wales Government is dedicated to encouraging more people to ride bikes, as bike riding is a sustainable means of transport. More people riding bikes will work to relieve congestion. More people cycling to school or work will take cars off the road. The new New South Wales State Plan sets an ambitious target of 5 per cent travel by bike across Sydney for local trips up to 10 kilometres by 2016. To achieve this target the New South Wales Government has committed \$158 million to complete the missing links in the Metropolitan Sydney Bike Network in the Metropolitan Transport Plan.

Most importantly, the cycleway links that the New South Wales Government will deliver, where possible, will be off-road connections, which will not result in any removal of parking or road space. The cycleways that are currently being constructed in the city central business district are being delivered wholly by the City of Sydney, which is responsible for the design, approval and construction of its cycleways. The City of Sydney has consulted the Roads and Traffic Authority about the safety of different road user groups, the functioning of intersections with traffic signals and the efficient operation of scheduled bus services. The Roads

and Traffic Authority is satisfied that these issues are being resolved to take account of stakeholders' views, and the cycleways can be delivered by the City of Sydney in a way that manages the projects' impacts on all road users.

KIAMA POLICE STATION

The Hon. ERIC ROOZENDAAL: On 19 May 2010 the Hon. John Ajaka asked a question without notice about plans to close Kiama police station. I am advised by the Minister for Police that the New South Wales Police Force has advised him that there is no plan to close Kiama police station.

AGED CARE FACILITIES

The Hon. PETER PRIMROSE: On 19 May 2010 Reverend the Hon. Dr Gordon Moyes asked a question without notice of the Treasurer regarding the growing aged population and what action the New South Wales Government is taking to actively plan for demographic change to create age-friendly environments. I provide the following response.

I am aware that the number of people over the age of 65 years will double in the next 40 years. That is a great result showing that people are living longer and healthier lives. In the next decade it is projected that New South Wales will have more people over 65 than people aged 15 years or less. I am also aware that there will be more women than men aged 85 and over in the next 40 years. According to the Australian Bureau of Statistics, women have a longer life expectancy than men and, therefore, outnumber men in the older age groups. By 2041 women are expected to represent 56 per cent of the population 65 years and over and 67 per cent of people aged 85 years and over.

The Home and Community Care Program, which is jointly funded by the Australian and New South Wales governments, supports frail older people and people with a disability to remain in their own homes and communities. In addition to the provision of services, in recognition of the ageing population the New South Wales Government launched its ageing strategy "Towards 2030: Planning for our changing population" in April 2008. The Towards 2030 strategy is a five-year, whole-of-government strategy to ensure that we are well positioned to meet the opportunities and challenges that an ageing population presents. The goal of Towards 2030 is to create a more age-friendly society that is able to respond effectively to population ageing.

Questions without notice concluded.

[The President left the chair at 1.08 p.m. The House resumed at 2.45 p.m.]

SUPERANNUATION LEGISLATION AMENDMENT BILL 2010

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

Motion by the Hon. Michael Veitch 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.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2010-2011

Debate resumed from 8 June 2010.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.47 p.m.]: I rise to respond to what hopefully will be the last budget handed down by the increasingly incompetent and, according to this morning's *Daily Telegraph*, "borderline delusional" New South Wales Labor Government. It seems every year we respond to a budget handed down by a different Premier. But one thing stays the same: the New South Wales State budget is not worth the paper it is printed on. We simply cannot trust Labor to live up to any of its promises, even when it wraps them up in sleek black show bags for the press.

This year's budget papers look strikingly similar to last year's, except for the green stripe, which the Treasurer leads us to believe represents his green shoots of recovery. The phrase "green shoots of recovery" is not Eric Roozendaal's, nor can it be credited to any of his senior staff. The phrase was coined by the then Chancellor of the Exchequer Norman Lamont in 1991. The phrase was as iconic in the United Kingdom as Keating's phrase "the recession we had to have" was in Australia. In Europe and the United States of America, the term has become an ironic joke among economic analysts and politicians, to be trotted out when one propagandistically wants to infuse confidence in the economy.

But there is something of a curse attached to invoking the mythical green shoots of recovery. Everyone who has ever used the term has been wrong. Norman Lamont, who oversaw the British economy during one of its worst ever downturns; United Kingdom business Minister Baroness Vadera in 2001 during the global financial crisis; and the United States of America Federal Reserve chairman, Ben Bernanke, have all called upon the green shoots to save them in their time of need, but things only got worse. We can add Treasurer Eric Roozendaal to that list of propagandists.

Kristina Keneally and Eric Roozendaal will use every trick in the book to dupe the electorate again, but the community knows that what they do is more about guaranteeing the future of Labor than making New South Wales number one again. The community has heard budget promises 15 times before from this incompetent Labor Government and the community knows it always fails to deliver. This is a State budget with a shelf life of 10 months. It has been cobbled together to get Labor through to the next election and that is all. The New South Wales Liberals and Nationals welcome moves to cut payroll tax but we are disappointed this State continues to carry the highest payroll tax burden of any State.

In contrast, our Jobs Action Plan unashamedly targets the creation of new jobs. It provides a payroll tax rebate of \$4,000 per full-time employee for the first 100,000 new eligible jobs created in New South Wales. Stamp duty reductions have got to be more than just promises. What Mr Roozendaal gives with one hand he takes away with the other through his property tax hike, and Labor fails to deliver necessary infrastructure upgrades. In the Hunter the State Labor Government, led by Kristina Keneally and with the Minister for the Hunter, Jodi McKay, as her mouthpiece in that region, has failed abysmally to provide any further direction for the Newcastle central business district development in its budget.

If the Government were serious about this region it would have given at least some sign, some acknowledgement, anything, that it wanted to help stimulate growth and create jobs and that the future of the Hunter rail line was on its agenda. In correspondence she distributed to electors in the lead-up to the last election Jodi McKay has said she wants to keep the rail line. We need to know if her opinion has changed. The New South Wales Liberals and The Nationals want to see the scoping study so we can make a decision before the next State election—a decision that we need to stick to. The centrepiece of the Keneally Labor Government's re-election strategy ignores the Hunter completely.

We are suffering under Labor's failure to get 18,000 homes built. When the 25-year strategy was issued the Government said planning was well advanced for Thornton North with 7,000 dwellings, Cooranbong with 2,500 dwellings, Bellbird with 3,500 dwellings and North Raymond Terrace with 4,500 dwellings. But not one home has been built in those areas, although Thornton North has a few display homes. The North Raymond Terrace project did progress last week when Port Stephens Council adopted a draft plan for the Kings Hill development after aircraft noise concerns delayed it for three years. The Government has approved the Coorumbong project, but it has been delayed. Other major land releases are planned for Huntley near Branxton involving 7,200 homes and Catherine Hill Bay involving 8,200 homes, but they have been delayed by court action. What good is a stamp duty reduction for off-the-plan homes if there are no off-the-plan homes to buy?

There can be no doubt that we need a new legal precinct given the huge problems plaguing the existing facilities and increased demand on those facilities impairing our ability to mete out swift justice and procedural fairness. The Hon. Jodi McKay's announcement of just \$4.7 million for land purchases must be taken with a grain of salt. While reflecting on the Newcastle legal precinct, we must remember that this is a State Labor Government with a record of delaying projects, cancelling projects, delivering them late, delivering them over budget or simply not delivering them at all with no explanation. We cannot trust them to deliver the \$90 million required to complete the project. It is too incompetent to get anything built on time and most certainly on budget. The New South Wales Liberals and The Nationals agree that the time for the precinct's construction is well overdue. In fact, shadow Attorney General Greg Smith, QC, strongly supports this project being driven by the Newcastle community. However, only the New South Wales Liberals and The Nationals have the economic credentials to get the job done and to get it done right.

It is a kick in the guts for the Hunter defence industry that it was not named as the recipient of the \$25 million in additional defence industry hub funding. That funding went instead to western Sydney and the Macquarie Park defence hub. We already have a growing and professional defence industry and the ideal location is, of course, Williamstown. Yet, the Minister for the Hunter, the Hon. Jodi McKay, has failed to represent those interests effectively within her own Cabinet. The New South Wales Liberals and The Nationals took a Hunter-focused defence industry policy to the last election. It is important to recognise that together we will ensure that this area is represented again in the lead-up to the next election with robust debate and policy ideas for this much-needed employment generation industry for the region. I want to see those jobs created, but the only job that Jodi McKay wants to protect is, of course, her own.

No money has been allocated in this budget for the Glendale interchange. That represents a monumental failure on the part of the member for Wallsend, Sonia Hornery, who put her career on the line in this Parliament to try to secure that funding.

Dr John Kaye: At least she tried.

The Hon. MICHAEL GALLACHER: And continues to fail because the Government is not interested in the Hunter. The people of Wallsend need better representation. They need a fighter and they will turn to the New South Wales Liberals and The Nationals to get the job done. The Glendale interchange is a \$60-million project that will create at least 900 jobs. They are jobs the Hunter desperately needs. This Labor Government has failed to deliver that project. That is what the people of Wallsend who use public transport should keep in mind when they are next subjected to Labor's limp rhetoric about that project. I want to see the results of the \$600,000 design and planning program that the State Government initiated in 2008. It promised money for the design then, but the project has simply disappeared. It is not good enough. If the design is sound and if the community has been consulted, the Coalition will certainly look favourably upon it. The community should at least be given a chance to look at it.

It is incredibly disappointing for the New South Wales Liberals and The Nationals that the Government has allocated funds for the construction of Tillegra Dam. We have confirmed that we will not support that project and if elected will not continue its construction. The State Labor Government has decided to spend \$18.6 million in preliminary construction works. I have asked a series of questions on this matter in the Parliament and I have requested the Government to suspend funding, construction and compulsory acquisition until after the State election. Let us take our respective commitments to the people and let them decide whether they want a Tillegra Dam. [*Time expired.*]

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.57 p.m.]: It was another sad day when our pathetic Treasurer—the evil sheriff of Nottingham—went to the lower House to deliver the budget speech. One hoped that during that 30 minutes of dreariness there would have been some mention of regional New South Wales or agriculture. However, not once during his speech on the New South Wales budget did the Treasurer mention them. That sums up this budget as far as a large part of New South Wales is concerned. The people of regional and rural New South Wales are the forgotten people and they are not getting their fair share.

The people of New South Wales would be forgiven for believing that this New South Wales Labor Government does not even know what exists outside the CBD. In fact, many members of this Government could not even find their way to Penrith over the past few weeks. If the Treasurer says that he is travelling west he means he is going to Sussex Street, not across the range. For farmers coming out of or still struggling through drought or for the average resident of a rural or regional area, this year's budget certainly does not paint a positive picture of what is in store for them under this inept Labor Government. This budget simply fails to invest in regional New South Wales. New South Wales Labor has cut funding to industry and investment, science, research, development and extension services. We have a 31 per cent cut in capital expenditure and a 10 per cent cut in total expenditure. The future implications of the Government's decision are frightening.

It was interesting to look at Minister Whan's press release on budget day. He was on high spin cycle as he attempted to talk up the minimal funding his department had received. The Minister claims, in the title of his press release, "\$443m to secure NSW agriculture and fisheries." Despite my background as an accountant, I cannot find that \$443 million, and neither can the professional fishing organisations or New South Wales farmers. Figures in the budget papers include \$50 million for river red gums structural adjustment. That is the phasing out of another regional industry, the closing down of another regional industry, that the Hon. Tony Catanzariti has been part of and supportive of, the same as the removal of water from the areas about which he has a motion on notice at the moment. Further, the Minister claimed in his press release that \$14.5 million

would be provided for irrigators in the State's Murray-Darling basin before later stating—sheepishly, I suspect—that it is funded by the Federal Government's Water for the Future initiative. He will say anything to pad out the dreary, miserable funding allocation for the bush.

The Government claims much of the roads budget is for regional and rural New South Wales yet the majority of funding in this area, with the exception of some funding for the Hume Highway, is for coastal highways. Very little is going west of the Great Dividing Range. Regional communities are seeing through this and are desperate for real funding. They do not want anything special; they just want a fair share. They did not get a fair share out of this, and they have not had a fair share for 15 years. The New South Wales Farmers Association recently stated that currently every Australian farm business feeds 600 people every year, 150 domestic and 450 overseas, and that production needs to increase by 70 per cent by 2050 to meet the global food crisis. It is a great shame that the Government has failed to recognise how vital our agriculture sector is for food security. Of course, that includes food security for fishing, where the Government continues to shut up larger and larger areas, and not on a scientific basis.

It is also a great shame that the department has been gutted at a frightening rate. These are the very resources we need to keep rural and regional New South Wales and the agricultural sector alive. Just recently the Department of Industry and Investment called for about 185 voluntary redundancies to reportedly fill a budget black hole of \$11 million. Recently Labor was calling for up to 70 voluntary redundancies from within Forests NSW to address the budget hole of \$14.4 million. Salaries and jobs are being removed from regional New South Wales, many of them on the front line. Regional communities are the backbone of the State yet each successive Labor budget that is handed down is a story of sheer neglect of the people and communities that need help most.

Look at Labor's track record on key health projects, and in this budget, in regional areas. The Dubbo region has three hospitals crying out for solid funding. Parkes hospital is the victim of a failed promise from this Government that dates back to 2004, one of Labor's many. After there was no sign in the budget of the redevelopment of Parkes and Forbes hospitals, as a sign of sheer tokenism the following day the health Minister, Carmel Tebbutt, announced an immediate \$150,000 for planning works for the redevelopment of the Parkes and Forbes hospitals. Her comments on the day left people more concerned for the future of those hospitals than reassured. The planning works announced will not be completed until mid-2011—that is a long time to spend \$150,000—which is three months after the next election. This is a lame attempt to make that community believe the Government is committed to the long overdue redevelopment of the hospitals, which are just essential. If this inept Government were sincere about serving the needs of the Parkes and Forbes communities it would offer more than a measly \$150,000 for the two hospitals' redevelopment, and it would have been in the budget.

The story with the Dubbo hospital is not much better. Whilst the Liberals and The Nationals welcome the acknowledgement of the redevelopment of Dubbo Base Hospital in the State budget, we are alarmed and concerned about how genuine the Government is when it only announced \$232,000 or around 1 per cent of the total cost of stage one of this project. Can anyone believe the Government is really fair dinkum when it provides a miniscule amount? If it were fair dinkum about the redevelopments it would provide at least 10 per cent of the cost of the project. That was the sort of money earmarked for Wagga Wagga, but Wagga Wagga has a very good member. If the Government were serious it would have allocated more believable funding.

This budget is yet another sign of the Government's neglect of vital infrastructure in regional areas. It is clear the Government has little regard for the future. Only the Liberals and The Nationals have a proper plan. Our \$5 billion Regional Kick-Start Plan announced in our budget reply is an exciting initiative to bring more jobs and improved infrastructure to areas that need it most. Restart NSW is a fund of up to \$5 billion that will restore our crumbling infrastructure. That means about \$1.6 billion of additional infrastructure spending in the regions. Thirty per cent of the Restart NSW Infrastructure Fund is being set up by the Liberals and Nationals and will be spent in non-metropolitan New South Wales. Another element of our plan is to create the jobs necessary to grow the regions. The regions will have priority for 40 per cent of the new jobs under the Jobs Action Plan. We want to create 100,000 jobs by providing payroll tax initiatives to employers. [*Time expired.*]

Dr JOHN KAYE [3.07 p.m.]: On 9 June, the day after the budget was delivered, the following two paragraphs appeared in the public domain:

Treasurer Eric Roozendaal yesterday produced a Budget for the big end of town, with tax cuts for developers, big business and hotels.

Labor's 14th and likely last state Budget will please party donors ahead of the next election but failed to produce a single new transport project to ease the pain of long-suffering commuters.

Those words bear some similarity to the media release the Greens put out on the day but they were not written by the Greens. They were not written by any progressive organisation; they were written by the *Daily Telegraph's* chief political writer, Andrew Clennell. Those words were the analysis that Rupert Murdoch's tabloid press put out the following day. This is a budget for the big end of town. This is a budget that delivered genuine money in the pockets of developers, genuine money in the pockets of large employers. At the same time it delivered real cuts, hard cuts, damaging cuts, to important areas of education and community services.

At the same time, Treasurer Roozendaal and his Treasury department can take absolutely no credit for the \$773 million surplus. This was not his green shoots of recovery; this was all about increased activity in the New South Wales property market driving up revenue. If anything, the \$773 million surplus highlights the ongoing vulnerability of the New South Wales budget to global economic circumstances. Nothing has been done to fix the sensitivity of the budget to a small downturn in property transfers and the way that blows out our budget surpluses and budget deficits.

Treasurer Roozendaal has squandered opportunities for a real economic recovery. Real cuts in spending on important areas such as public education will impose long-term social costs on this State with real and hard consequences for the people of New South Wales. The real winners, the people who walk away from this budget with bulging pockets, are the developers. Treasurer Roozendaal has pushed the industry's products to the front of the housing market, delivering windfall profits. In the first instance the Treasurer capped developer contribution levies, which will not only hamstring local councils and inflict poorly serviced new developments on to lower income homebuyers, it will also force existing home owners, many of whom are struggling to pay off their loans, into cross-subsidising new developments.

This is a blow to already overstretched local government sectors. It is also deeply unfair. It is cruel to enrich the already fabulously wealthy developers while putting additional financial burdens on to existing homeowners. This is a case of robbing Peter to pay Paul: it is a case of the Sheriff of Nottingham gone mad. Treasurer Roozendaal is pushing the State towards a two-tiered housing sector. Pushing ahead with his developer-based model is irresponsible and will only contribute to another housing bubble, further pricing people on modest incomes out of the market.

The perverse outcome is that providing bonuses to homebuyers actually makes houses less affordable. This is an industry where prices are driven not by the cost of production but by what consumers are prepared to pay. Putting more money in the pockets of consumers does not make houses more affordable; all it does is make development more profitable. Developers will soak up any benefit given—money that should have been used on community housing, social housing, public housing to take the pressure off the lower end of the market. If the State is to spend fabulous amounts of money on housing affordability the worst thing we can do is put it into the pockets of developers. The best thing we could do is put it into genuine housing projects, which take the pressure off the low end of the housing market, with ripple-through effects across the entire housing market.

The Keneally Government entirely abandoned both public education and the unemployed. The 2010-11 budget slashed the State's recurrent spending on public schools and TAFE colleges by a shocking \$73 million in real terms while private schools in the State will receive an \$18.6 million boost in real terms. Treasurer Roozendaal has made life much harder for public school and TAFE students while continuing to prop up luxury conditions in wealthy private schools. The Government argues that this has something to do with the Building the Education Revolution and the way it sloshes the funds about in the recurrent budget. Recurrent money is recurrent money. Capital money is capital money. Building the Education Revolution funds are capital funds.

The Government is hiding behind accounting complexities to disguise the real truth of what is going on—a \$73 million cut to TAFE colleges and public schools around New South Wales. The budget contained a promise of \$5.5 million for 2,000 unemployed young people to undertake prevocational training courses—the equivalent of \$2,750 per person, which would secure just under 19 hours of prevocational education. These are high-needs young people who have fallen out of employment and education. They will need more than 19 hours of prevocational education to return to employment or education. Many will have literacy and numeracy problems and some will have behavioural issues also. The Keneally Government is playing at helping these young people at risk.

Roads were given massive priority over public transport. The huge \$2.8 billion being sunk into major capital works for roads dwarfs the measly \$655 million slated for development of the rail network in 2010-11. The Keneally Government continues to undermine the importance of public transport and bikeways, while

fattening up the roads budget, which will become irrelevant as petrol prices rise. Much has been made of the across-the-board cuts to payroll tax, but most of the benefit falls to large corporations, and the revenue losses will continue to undermine the delivery of services.

While the Greens support cutting payroll tax for small and medium-sized businesses, Treasurer Roozendaal is using the tax system to pump up the profits of the large corporations at the expense of the community. The budget also suggested that \$75 million would be spent on chasing 1,500 defence jobs at a special precinct in north-western Sydney. That amounts to \$30,000 per job. It highlights the absurdity of trying to use public funds to attract defence employment projects. The reality remains that defence has always offered a poor employment return on investment. Further, it locks the workers into an inflexible industry, removed from consumer-producing industry. There is no future for Australia's manufacturing industry in pretending that we are creating jobs by squandering \$75 million on defence projects.

The budget also sold out on the future of renewable energy. The budget persists with the myth that clean coal will reduce greenhouse gas emissions while starving renewable energy of the funding that the industry needs to break through. Major renewable energy projects received a paltry \$21.7 million while the so-called clean coal scam received \$25 million for 2010-11. Likewise, Juvenile Justice failed to receive an increase in the budget. Without an increase in funding it will be very difficult to divert young people away from the tragedy of incarceration.

A major lost opportunity in this budget was a failure to cancel Tillegra Dam. Over the next five years \$477 million could have been freed up for important infrastructure projects—infrastructure projects that were needed, that would generate jobs and that would not devastate the environment. None of those statements is true of Tillegra Dam. This dam has no meaning, no reason and will devastate the lower Hunter River and the Williams River. Tillegra Dam should have been scrapped in this budget. The \$75 million already spent on land acquisition should have been recovered by selling the land.

The budget also continues with the myth that there is an opportunity to make money out of privatising important projects. This morning the Treasurer was unable to answer the question I asked about what was the retention value for maintaining the electricity assets in public hands. It has been estimated that \$7.6 billion will be lost in the electricity privatisation project, which could be well less than the amount earned. A budget that is founded on privatisation is a budget that is founded on economic voodooism.

The Hon. KAYEE GRIFFIN [3.17 p.m.]: I congratulate Treasurer Roozendaal on the 2010-11 budget, a budget aimed at building a better future for New South Wales and a fiscally responsible budget designed to support growth as the New South Wales economy recovers from the global financial crisis. I am pleased to note that the budget has returned to surplus two years earlier than forecast, with a turnaround of over \$1 billion in 2009-10. I commend Treasurer Roozendaal and Premier Keneally for making the tough decisions, steering the economy through difficult times and seeking new approaches to the challenging issues facing our State.

This budget has a theme of growth, infrastructure and economic recovery. I am pleased to note that this year's budget has continued the Government's record investment in infrastructure for this State. The 2010-11 budget delivers better services, investment in infrastructure and reaffirms that the New South Wales economy is on the path to improved prosperity and stability. I draw the attention of members to a number of key initiatives in the 2010-11 budget.

In an Australian first, the Keneally Government has cut stamp duty for the next two years for the purchase of new homes off the plan. This presents a savings of \$20,000 or more for people who buy houses or apartments worth up to \$600,000 in pre-construction stages. In more good news for homebuyers, the budget contains provisions for a 25 per cent cut in stamp duty on all newly constructed homes, providing savings to homebuyers in excess of \$5,000. First home buyers will now receive up to \$29,490 in benefits for purchasing their home in the preconstruction stage, off the plan. The budget also provides tax relief for businesses, with a \$4 billion payroll tax cut over six years from 2013-2014. This represents a double tax cut, with the payroll tax cut which was due to come into effect on 1 January 2011 being fast tracked to 1 July this year, followed by a further cut on 1 January 2011. This will result in the New South Wales payroll tax rate being lowered to 5.45 per cent.

The 2010-11 budget is investing in services to assist the most vulnerable in our communities, with more than \$1.6 billion allocated to Community Services, an increase of 7 per cent or \$107 million. The Keneally

Labor Government is committed to improving the support for at-risk children and families, and this funding comes at a vital time when the New South Wales child protection system is undergoing significant reforms under the Keep Them Safe program. This funding represents a significant investment into local communities through the funding of neighbourhood and community centres that run programs aimed at the most disadvantaged members of New South Wales communities. These centres provide a wide range of support services to the vulnerable and disadvantaged in our communities, including the homeless, unemployed, domestic violence victims, the elderly and the disabled.

Key areas of expenditure in Community Services in the budget include a \$680 million investment in out-of-home care for children whose families are unable to care for them; a \$409 million investment in child protection initiatives, particularly in services for children who require statutory intervention; and over \$330 million in funding allocated for early intervention and prevention services for children and strategies aimed at helping to stop children from entering or escalating in the child protection system. More than \$680 million in funding for out-of-home care is set to support children and young people in our communities who are unable to live safely at home.

Funding increases for out-of-home care in the budget will significantly improve prospects of children in care. Key initiatives supported by this funding include \$4.5 million for family restoration and support services so children who have been removed are given the best opportunity and support to ultimately return to their families; \$6.2 million in funding to help support measures to ensure the number of children going into care for extended periods is reduced, including extra family supervision and support services; and a \$1.8 million statewide recruitment campaign to attract more foster parents to help provide safe and stable care for children who cannot remain in their homes.

The Brighter Futures early intervention program targets at-risk families and implements preventative measures targeting specialised needs. An investment of \$8 million will support extra places in the Brighter Futures program, providing further opportunities to reach and help at-risk children. Keep Them Safe has received continued support in this year's budget, allowing the continuation of a range of measures supporting vulnerable and at-risk children. As part of Keep Them Safe, initiatives receiving funding for additional support services include a \$2 million allocation for drug and alcohol intervention services for parents, young adults and families, and a \$4 million allocation for mental health service provision for children of parents with mental illness.

The budget also allocates funding to support the "Forgotten Australians" following the Federal Government's apology last year, with \$1.9 million in funding to support counselling and assistance with housing, health and education services. The New South Wales Government joins with the Federal Rudd Government in providing joint funding investing in early childhood development resources. An additional \$27.8 million in Commonwealth funds will assist with early childhood programs, provide funding to increase the rate of preschool attendance, and will include a \$2.9 million investment in adopting the national quality system for children's services.

The Keneally Government has invested in services for people with disabilities and their families, as well as carers and the elderly, in the 2010-11 budget. An increase in funding of 9.1 per cent has seen more than \$2 billion allocated to Ageing, Disability and Home Care in this budget, with further funds injected into the restructuring process under the Stronger Together program, which is redesigning the provision of services in this sector. This funding will continue and extend services such as respite for carers, supported accommodation and occupational therapy services, and will invest in the sustained improvement of the quality of life for the aged and disabled.

Highlights in spending in Ageing, Disability and Home Care include: \$26.2 million in 2010-11 towards preventing young people entering nursing homes in place of other care, as well as improving the lives of young people who currently live in nursing homes; 401 new accommodation places will be supported with \$203 million allocated for 2010-11 and an additional 1,370 places established over five years; \$34.3 million in funding to provide flexible respite packages giving families, parents and carers improved access to respite services; \$71 million in funding to extend support services for people with a disability who leave school but are unable to enter the workforce; an injection of \$585.8 million in 2010-11 for home and community care services, which include domestic assistance, meals, transport, social support, case management and respite; an increase of \$2 million in funding for early intervention and additional support services for autism; additional day program places with an increase of \$1.2 million in funding; \$6 million in funding allocated towards providing alternative accommodation support for people with a disability who live in boarding houses, a very important issue; an

increase of \$2.3 million, with \$11 million allocated for the provision of intensive support packages for children and young people with disabilities and their families, also an extremely important part of our budget; and \$42.4 million for the provision of an additional 103 attendant care intensive in-home support places.

I draw members' attention to another of the highlights of the budget: the record investment in a \$50 million five-year Domestic and Family Violence Action Plan. This initiative will provide valuable, practical support to victims of domestic violence with specialist domestic violence support workers located at police stations. These support workers will be available to provide face-to-face support and care, to ensure that victims can protect themselves and their children from their abusers. One of the key aspects of this initiative is the target to encourage victims to actively make decisions to implement changes necessary to break the cycle of violence for themselves and their families. As part of this action plan, existing schemes will be extended to improve accessibility for more women, especially women living in rural and regional areas.

Funding allocations for service provisions under this Domestic Violence Action Plan include: \$1.3 million to fund an expansion of the Rural Women's Outreach Program, providing legal aid services and support to women in isolated and remote communities; \$2.4 million to expand the Domestic Violence Duty Solicitor Scheme to an additional 15 court regions; a \$2.2 million investment to support five existing domestic violence proactive support services in metropolitan areas including Sutherland, and the inner west, Wollongong, Redfern and Canterbury areas; and a \$1.5 million expansion of the services in five high-risk locations, including the eastern suburbs, Parramatta, Coffs Harbour, Armidale, Rockdale and Kogarah.

I was pleased to see the inclusion of this Domestic Violence Action Plan in the budget, especially following the passing of the Coroners Amendment (Domestic Violence Death Review Team) Bill 2010 by the Parliament recently. The legislation will see the Domestic Violence Death Review Team convened. The team is an expert group that investigates domestic violence deaths and assists in better identifying areas that need attention in order to prevent further domestic violence fatalities. As part of the Domestic Violence Action Plan there will also be provisions of funding for continued research into domestic violence and related issues, to aid in future policy formation and program implementation targeting those most at risk as well as support for domestic violence awareness and prevention campaigns to educate the community about this issue. The items I have referred to—although there are so many more in the budget—are extremely important for the people of New South Wales.

The Hon. TREVOR KHAN [3.27 p.m.]: It is with considerable pleasure but also with a considerable degree of heartache that I participate in this budget take-note debate. This year's budget was the final opportunity for this State Labor Government to deliver for the people in rural and regional New South Wales on so many of the promises and half-promises it has made over the 15 years it has been in power, but once again it has failed to deliver. With regard to the Tamworth electorate, we note with considerable concern the Government's failure to deliver on three major projects. Prior to the last State election the then Premier, Morris Iemma, came to Tamworth and promised that there would be a redevelopment of Tamworth hospital within the current term of this Government. We have only nine months to go and this is the final opportunity for the Government to deliver on that redevelopment. But what do we see in the budget for the Tamworth hospital redevelopment? Nothing at all.

We have seen this State Labor Government fail, utterly and completely, to meet the promises it has made, but what is more significant than the Government's failure to meet a commitment and a solid promise to the people of Tamworth is its failure to upgrade much-needed medical facilities across the north-western region of the State. This is not a mere game that the Government plays with people's votes; it is indeed an exercise of playing with people's lives. It is a tragedy, a true shame, that this State Labor Government has once again failed to deliver on this project.

That was not the only project on which the Government failed to deliver. For years we have talked about the augmentation of Chaffey Dam. It is vital for the Tamworth region to have adequate and secure water supplies. The Hon. Tony Catanzariti is smiling, although he knows the importance of water to the success of regional and rural towns and cities. Plainly there was an absolute failure to progress this matter for Tamworth. I concede that at least part of the safety upgrade of the dam is progressing but we did not see any money for planning of the augmentation.

I now move to another vital piece of missing water infrastructure. Time and again there has been discussion about the water supply for the township of Barraba, which is approximately 20 kilometres from Split Rock Dam and constantly teeters on the brink of no water.

The Hon. Rick Colless: They could lay a pipeline there from Split Rock.

The Hon. TREVOR KHAN: As the Hon. Rick Colless points out, for years there have been plans for a pipeline to be brought from Split Rock Dam. Indeed there is a valve in the wall of the dam to allow for that pipeline to be put in place. But what do we see? We see no allocation for the building of the pipeline. The Tamworth Regional Council has been prepared to allocate \$10 million towards the construction of the pipeline, yet this Government is not prepared to provide funding to assist in its construction. Interestingly, at Lake Cargelligo, in the electorate of Murrumbidgee, the State and Federal governments have been prepared to provide funding for the construction of a pipeline to provide water to the township. In that instance there was no requirement for any contribution from the local government sector to contribute towards the construction of the pipeline. The Tamworth council is prepared to put aside \$10 million of community money to assist in the construction of a pipeline yet the Government is not prepared to provide even matching funding. This Government has neither the commitment to the Tamworth electorate nor the imagination to allocate appropriate funding to allow construction to commence.

All this has occurred in circumstances in which one would think the Government would see the necessity of demonstrating to the people of regional New South Wales that it is interested in their health and wellbeing. Unfortunately, notwithstanding the making of promises and the urgent need for the delivery of long overdue infrastructure, it seems that the money is either being frittered away or being committed to projects in seats in metropolitan Sydney that the Government has come to realise will be lost unless something is done about delivering infrastructure to those areas also that it has failed to deliver.

The Hon. Rick Colless: Penrith did not get much.

The Hon. TREVOR KHAN: The Hon. Rick Colless makes a point about Penrith. Government members probably consider that Penrith is now too far west. It is more interested in trying to shore up Marrickville, Balmain and Coojee against the possibility of loss rather than poor old Penrith. Thank goodness the people of Penrith saw through the Government's smokescreen as that area has been neglected for years by this Government. But the Hon. Rick Colless has got me off the point of talking about Tamworth and its redevelopment.

On the day of the budget a media release was issued about the monies allocated for the long overdue upgrade of the maternity unit at Tamworth hospital. The allocated funding for that purpose was described as being partly for the upgrade of the maternity unit and partly for planning. The media release was deceptive in the extreme, and the level of that deception was demonstrated by the fact that in the other place when the Leader of The Nationals, Mr Andrew Stoner, asked a question of the Minister for Health, Ms Carmel Tebbutt, about the redevelopment of Tamworth hospital amongst others, the Minister conceded—at least the Minister did that—that the only money that was allocated in the Health budget for Tamworth hospital related to the upgrade of the maternity unit and for some planning and construction of the cancer care unit at the hospital, a facility that is largely funded by the Federal Government. What the Minister did not assert, and quite rightly, was that there was any money for planning or redevelopment of the hospital.

The media release was issued on the day of the budget to spin and deceive the people of the Tamworth electorate. It asserted that there was money for redevelopment when there was none. We know that not only because of the concession made by the Minister for Health but also because there is no line item in the budget relating to any planning or redevelopment of the hospital. It is shameful indeed that the Government has been caught out on its failure to deliver on its promise; it is even more shameful that it now seeks to spin and deceive by issuing false media releases. It is indicative of the moral corruptness of the Government that it would embark upon such trickery as it did on this occasion.

The Hon. Tony Catanzariti: You know that is not true.

The Hon. TREVOR KHAN: The Hon. Tony Catanzariti says I know that is not true. Sadly, I know it is true. Time and again the Government has had the opportunity to deliver on Tamworth hospital. Time and again questions on the subject have been asked in this House of various Ministers for Health. Time and again former Premiers Iemma and Rees were asked to confirm that the redevelopment of Tamworth hospital would proceed prior to the next State election, and time and again they said it would. Here was the opportunity to deliver, and what did the Government do? It squibbed. The best we got was a lie in the form of a media release rather than the money. It is truly an indication as to how bad, corrupt and morally moribund this State Labor Government is.

The Hon. MARIE FICARRA [3.37 p.m.]: Public judgement on crucial issues in the budget that concern the families of New South Wales—namely, health and public transport—have been rightfully negative. Even the Combined Pensioners and Superannuants Association feedback was:

... pensioners are disappointed that there was no increase in funding for public dental health services, despite severe underfunding in this area.

Shamefully this Government is once again neglecting the oral health of those vulnerable persons. The cost in the long run is more damaging, and pensioners will continue to be treated poorly as this Government will take a significant proportion of their Federal pension increase, which was meant to cover items such as dental and electricity costs, for public housing rent rebates—something that was not even contemplated by any other State. Government members should hang their heads in shame. On 8 June the Australian Medical Association said:

New South Wales hospitals will be approximately \$500 million worse off next year as a result of the 2010-11 New South Wales Health Budget going backwards.

The report of the Australian Institute of Health and Welfare released last week revealed this Labor Government has reduced surgery at New South Wales public hospitals and that has resulted in waiting lists being at an all time high. Over 67,500 patients are still waiting. Nepean Hospital has the longest waiting list of any hospital in New South Wales, with a shameful 3,000 patients currently needing operations.

New South Wales is the only State to perform fewer operations than were performed in the State two years ago, that is, over 2,000 fewer operations. It is deception, spin and an outright lie. Despite receiving more Commonwealth funds, this pathetic Labor Government still cannot deliver. According to Professor Brian Owler, a neurosurgeon at Westmead Hospital, surgeons in public hospitals do not trust official government waiting lists, as official government figures do not include patients who have been waiting longer than 12 months. They somehow drop off the list into never-never land. The New South Wales Liberals and Nationals will abolish Labor's fabled area health services and replace them with efficient health districts with local boards. We will deliver more resources for front-line nurses and doctors and open some of the 2,500 beds that were closed by Labor over its 15 years of neglect. That will mean patients will receive much-needed operations. Public transport is a vital issue to families and their ability to get to and from work and live their lives in security and certainty. They expect their taxes to deliver effective train bus and ferry services. In its assessment of Labor's budget in relation to the State's future growth price prospects, Infrastructure Partnerships Australia stated:

We need to get serious about getting our economy growing again ... We need to start getting the right infrastructure in place so we can deal with those growth pressures.

The Hon. Trevor Khan: How will we get there?

The Hon. MARIE FICARRA: I will get to that, as the Hon. Trevor Khan rightfully encourages me. Brett Gale from the New South Wales Tourism and Transport Forum said:

As we said at the time of the release of the Metropolitan Transport Plan, it was a bit too little too late and, unfortunately, despite the government having a surplus, it hasn't brought that surplus forward to bring the critical infrastructure that we need, the North West Rail Link and our major road projects that we need such as the M5 extension and the M4 East.

The Sydney Business Chamber's opinion was:

The fiasco over the cancellation of the CBD Metro has delayed investment in significant transport projects that Sydney desperately needs. The Government's poor track record on transport has placed it in a position where the only significant transport project most likely to commence this year will be the light rail extension to Dulwich Hill.

Let us be fair and look at the feedback on the Liberals and Nationals budget reply speech, given by Barry O'Farrell, and associated policies. Infrastructure Partnerships Australia has stated:

The Opposition's plan to create a multibillion dollar infrastructure fund, franchise ferries and drive internal savings to fund new projects is a substantial commitment that would begin to return confidence to NSW.

The New South Wales Liberals and Nationals will provide new investment opportunities for mum and dad investors, superannuation funds and others by issuing Waratah bonds, which will be directed to specific and essential public infrastructure projects. Waratah bonds will be New South Wales government-backed debt instruments that will enable government to access new, uncapped capital markets. Urban Taskforce Australia has stated:

The new Opposition infrastructure fund will create a mechanism to fund the North West rail link—a transport initiative that will make it easier for Sydney to respond to the challenges of population growth and demographic change.

Brett Gale from the New South Wales Tourism and Transport Forum has said:

Fixing Sydney Ferries is a vital piece in the puzzle of revitalising the city's transport network and the Opposition deserves support for this critical policy initiative.

Let us not forget families in regional and rural New South Wales. The New South Wales Farmers Association stated:

This budget has ignored many key areas for rural and regional New South Wales.

On the subject of the Liberals-Nationals Regional Kick-Start, Stephen Cartwright, Chief Executive Officer of the New South Wales Business Chamber, said:

We do need to think of innovative strategies to encourage people to make the move to regional New South Wales—and I welcome the \$7,000 relocation initiative.

The Hon. Trevor Khan: It is a great policy.

The Hon. MARIE FICARRA: It is a great policy. On 11 June 2010 the Local Government and Shires Association said:

The Regional Kick-Start plan announced by the Opposition leader, Barry O'Farrell, and The Nationals leader, Andrew Stoner, will provide a much needed boost to rural and regional communities and help ease growing pressure in Sydney.

Even the Speaker in the other place, Richard Torbay, the Independent member for the Northern Tablelands, said:

These policies recognise that a third of the New South Wales population lives outside the Sydney, Newcastle and Wollongong nexus and should be allocated their fair share of funding and resources.

Regional Kick-Start, the New South Wales Liberals and Nationals plan to grow regional New South Wales through job creation and improved infrastructure, will introduce regional relocation grants of up to \$7,000 for individuals and families who move from Sydney and build or buy a new home in regional New South Wales, it will earmark 30 per cent of funding under Restart New South Wales for infrastructure projects in regional areas, and it will create 40,000 new jobs in regional New South Wales under a Jobs Action Plan. Regional Kick-Start will attract people, growth and investment into regional areas, strengthening places such as Tamworth, Dubbo and Bathurst. The growth of these areas will underpin the State's economy. By extending stamp duty concessions to the over-55s and axing Labor's new homebuyers tax, which is worth \$429 million on property purchases, the New South Wales Liberals and Nationals \$630 million plan will assist to make Sydney liveable again.

The Liberals and Nationals will start to reverse Sydney's terrible reputation as Australia's least affordable city, a Labor legacy that has seen many families and young people finding Sydney far too expensive to live in. Sydney families are hurting because of housing stress caused by lack of supply. The New South Wales Liberals and Nationals will accelerate land release and help reduce costs of home ownership by publishing annual real-time new dwelling targets for Sydney, the Hunter and the Illawarra. They will form a benchmark for performance in the planning system and allow access by local communities and their representatives to more information so that they can join in the debate on housing issues before decisions are made. Jobs, hospitals, trains, buses, ferries and housing affordability all contribute to the quality of life of families. Judgement on Labor's budget—

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

FAIR TRADING AMENDMENT (UNFAIR CONTRACT TERMS) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.47 p.m.], on behalf of the Hon. Peter Primrose: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Fair Trading Amendment (Unfair Contract Terms) Bill 2010, the first step in giving effect to far-reaching reforms of consumer protection legislation in this State and throughout Australia.

On 2 October 2008, the Council of Australian Governments agreed to a new consumer policy framework in the context of its broader agenda for regulatory reform and commitment to a seamless national economy.

The Ministerial Council on Consumer Affairs developed the new framework, drawing on recommendations made by the Productivity Commission. Central to this plan is a single national consumer law designed to enhance individual consumer wellbeing, further assist in the development of a single national economy, reduce burdens on business and facilitate well-functioning markets.

The Australian Consumer Law is based on the existing consumer protections in the Trade Practices Act and draws on best practice in State and Territory laws, including unfair contract terms.

The law has been developed with the agreement of all Australian jurisdictions. The Commonwealth is lead legislator and States and Territories will apply the national law as part of their own laws.

Enforcement and administration of the Australian Consumer Law will be shared between the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and State and Territory fair trading agencies.

The Intergovernmental Agreement that underpins these arrangements was signed by the Council of Australian Governments on 2 July 2009.

Implementation of the law will be in two stages. The first stage sees the introduction of the unfair contract terms provisions. The second stage must commence by 1 January 2011 in accordance with the National Partnership Agreement to deliver a seamless national economy. The second stage comprises the remainder of the Australian Consumer Law, including national product safety provisions and new consumer guarantees.

To satisfy its obligations in this process, the Australian Parliament passed the Trade Practices Amendment (Australian Consumer Law) Act (No 1) 2010 on 17 March 2010. It amends the Trade Practices Act to establish and apply the unfair contract terms provisions of the Australian Consumer Law and to introduce new penalties, enforcement powers and consumer redress options.

The bill also amends the consumer protection provisions of the Australian Securities and Investments Commission Act 2001, making the provisions dealing with financial products and services in that Act consistent with the Trade Practices Act and the Australian Consumer Law.

The unfair contract terms provisions will commence nationally on 1 July 2010.

Victoria is the only jurisdiction in Australia that regulates unfair contract terms and it amended its legislation on 27 May 2010, passing the Victorian Fair Trading Amendment (Unfair Contract Terms) Bill 2010 to align its provisions with the national unfair contract terms provisions.

Our intention is to apply the provisions on unfair contract terms in this State at the same time they commence at the Commonwealth level by amending the Fair Trading Act 1987.

The New South Wales Parliament has a history of empowering the courts to intervene in contracts governing consumer transactions. Three decades ago it enacted the Contracts Review Act 1980.

Under this Act the manner in which a court may intervene is far broader than under the common law, allowing judicial discretion to select the most appropriate relief for the specific case at hand.

The focus tends to be on procedural unfairness and looking at the circumstances surrounding the formation of a contract that may have involved unfairness.

By contrast, the current bill focuses on substantive unfairness circumstances where unfairness results from the actual wording of contract terms unduly favouring the supplier or disadvantaging the consumer.

There has been bipartisan support for unfair contract terms legislation. In August 2006 the Legislative Council Standing Committee on Law and Justice was asked to inquire into the incidence and impact of unfair terms in consumer contracts.

The committee recommended that New South Wales enact laws modelled on those introduced in Victoria in 2003. At the time the committee noted that inquiry participants expressed a preference for a national scheme. A subsequent Productivity Commission report on Australia's consumer policy framework strongly supported the inclusion of an unfair contract terms provision in a new national consumer law.

This bill is the fulfilment of years of work and consultation to develop a law that protects consumers from contract terms that harm and exploit them.

Both the Fair Trading Act and the Trade Practices Act prohibit misleading, deceptive and unconscionable conduct in trade or commerce.

These generic consumer protection provisions will be at the core of the Australian Consumer Law. They are concerned with ensuring that market transactions are based on truthful information and ethical conduct, and that businesses do not unfairly exploit an imbalance in bargaining power.

With the enactment of this bill, the law will also meet a third objective of promoting fairness in contractual obligations.

I turn now to the provisions of the bill.

The bill inserts into the Fair Trading Act a new part 5G which contains provisions drawn from the Australian Consumer Law relating to unfair terms in consumer contracts that are standard form contracts.

An unfair contract term in a standard form consumer contract is void, although the contract continues to bind the parties if it is capable of operating without the unfair term.

A "consumer contract" is defined as "a contract for the supply of goods or services or for a sale or grant of an interest in land to an individual whose acquisition of the goods, services or interest is wholly or predominantly for personal, domestic or household use or consumption". The bill makes it clear that the provisions only apply where the sale or grant of an interest in land is in trade or commerce.

A standard form contract is not defined. If a party to a contract alleges it is a standard form contract, it is presumed to be unless the other party proves otherwise.

The bill lists a number of factors a court or the Consumer, Trader and Tenancy Tribunal must take into account when determining whether a contract is standard form. These include matters such as:

- the relative bargaining power of the parties; and
- the extent to which the consumer was required to accept, without opportunity to negotiate, contract terms drawn up by the trader before the transaction occurred.

A term is unfair if it causes a significant imbalance in the parties' rights and obligations under the contract, is not reasonably necessary to protect the legitimate interests of the party who would be advantaged by the term, and would cause detriment (whether financial or otherwise) to a party if it were to be applied or relied upon.

The second limb of the unfairness test requires that the party advantaged by the term provide evidence to the court or tribunal to demonstrate why it is necessary for the contract to include the term. Such evidence might include material relating to the business's costs and business structure, and the need for the mitigation of risks or particular industry practices to the extent that material is necessary.

Detriment is not limited to financial detriment. It could also include other forms, such as delay or distress suffered by the consumer as a result of the unfair term.

There are two factors a court or tribunal must take into account when determining whether a term is unfair. The first is the transparency of the term and the second is the contract as a whole.

The bill defines transparency as being expressed in reasonably plain language, legible, clearly presented and readily available. Examples of terms that may not be transparent include terms buried in fine print or couched in technical jargon or legalese. However, a term that is not transparent is not necessarily unfair and, conversely, transparency will not necessarily overcome underlying unfairness in a contract term.

A court or tribunal must also have regard to the contract as a whole. A contract represents a balance of interests and considerations and no term can be considered in isolation. Some terms which initially appear quite unfair may be found to be reasonable when considered in context.

The bill sets out a non-exhaustive, indicative list of the types of terms that may be considered unfair. These examples, commonly referred to as a "grey list", provide statutory guidance but are not conclusive of unfairness. Such terms are not prohibited and may be justified in some circumstances.

Some examples are terms that allow one party to make unilateral changes to the contract; terms that permit one party to assign the contract to the detriment of the other party without their consent or to limit one party's vicarious liability for its agents; and terms that permit one party to unilaterally determine whether a contract has been breached or to interpret the contract's meaning.

Other types of contract terms can be added to the list by regulation, but only after the Minister has considered:

- the detriment a term of that kind would cause to consumers; and
- the impact on business generally of prescribing the term; and
- the public interest.

The bill provides that the law does not apply to three types of contract terms. First, it does not apply to terms that define the main subject matter of the contract, that is, the goods, services or land that the consumer has agreed to buy.

Second, it does not apply to terms that set the upfront price payable under the contract, provided the price is disclosed before the contract is entered into. The concept of "upfront price" is important, because some contracts also include terms which impose fees and charges levied as a consequence of something happening or not happening at some point over the life of the contract. These are not payments that are necessary for the provision of the supply, sale or grant under the contract, but are additional to the upfront price and are covered by the unfair contract terms provisions.

Third, it does not apply to terms that are required or expressly permitted by a law of the Commonwealth, a State or Territory.

For the sake of national consistency the bill also provides for part 5G not to apply to certain kinds of marine contracts or to the constitutions of companies and other bodies or of managed investment schemes.

The bill amends the enforcement and remedies provisions of the Fair Trading Act to enable the Director-General of Fair Trading to seek a declaration from the Supreme Court that a term is unfair.

A party to a standard form consumer contract may also seek a declaration, with the leave of the court.

A declaration that a particular term of a standard form consumer contract is unfair binds all parties to consumer contracts of that kind, unless the Supreme Court orders otherwise.

Section 648 (4) (b) makes explicit that the declaratory powers granted to the Supreme Court in clauses 648 (1) to (3) do not prevent a consumer from bringing action relating to a standard form contract in any other competent court or tribunal for relief in respect of a term of a consumer contract that is void because it is unfair.

Once a term is declared unfair it is void and the trader must not rely on it. This means that the trader must not attempt to enforce the term, attempt to exercise a right conferred by the term or assert the existence of a right conferred by the term.

A trader who seeks to apply or rely on a declared unfair term is in contravention of the Act. It is not a criminal offence, but a civil contravention. The bill provides that the Director-General of Fair Trading will be able to apply to the Supreme Court for one of the existing remedies available under the Fair Trading Act, including an injunction to restrain conduct and other orders such as specific performance or payment of compensation.

The bill also amends the public warning power under the Fair Trading Act to make it clear that the Director-General may issue warnings in relation to business practices involving the use of terms in standard form consumer contracts that are or may be unfair.

The bill also makes transitional and consequential amendments.

Part 5G applies to new consumer contracts entered into on or after the date the law commences, which has been set at 1 July 2010.

Part 5G is not retrospective. It does not apply to existing contracts, unless such a contract is renewed on or after 1 July or a term of the contract is varied on or after 1 July. The provisions will then apply to the renewed contract from the date of renewal and to the varied term of the contract from the date of variation.

The bill amends the Contracts Review Act to make it clear that both the unfair contract terms provisions and the Contracts Review Act 1980 will operate without one limiting or restricting the operation of the other.

The unfair contract terms law is designed to address the detriment that can arise in circumstances where consumers are offered contracts on a "take it or leave it" basis and those contracts contain terms that are unfair.

I am delighted to join my Commonwealth and Victorian counterparts in introducing this landmark law. Not only does it herald a new era in consumer protection, but it is the start of a truly national approach to the administration and enforcement of consumer laws.

I commend the bill.

The Hon. CATHERINE CUSACK [3.47 p.m.]: The New South Wales Liberals and Nationals do not oppose the Fair Trading Amendment (Unfair Contract Terms) Bill 2010. In fact, we welcome this overdue move towards legislation banning unfair provisions in contracts. I examined this matter when I was shadow Minister for Consumer Affairs, particularly in relation to retirement village contracts, which for some people were a nightmare. Multiple versions of different contracts existed, even within one village. Often, the terms were circular, difficult to understand and, in some cases, downright sneaky, and all designed to entrap the consumer. As there was no recourse in law to remedy a situation where contract provisions were unfair, this was an obvious area of investigation.

During our investigations it became increasingly clear that we preferred a national approach. That is the way our markets operate and consumers behave. People who live in one State can make a purchase in another State and, potentially, borrow money to finance the purchase in a third State. A national approach was always our preference. Indeed, this was a recommendation of the Productivity Commission, which did a considerable amount of work on this issue on behalf of consumers. Our complaint, which is an old complaint that we make about Fair Trading, is about the incredibly slow process that we seem to go through in New South Wales to reach any outcomes. So it is a relief, as well as welcoming, that today we seem to be on the edge of an outcome.

The Federal Government's proposal through the Ministerial Council on Consumer Affairs was for this legislation to become operative on 1 July. I ask the Government to clarify whether with the passage of this bill

the consumers in this State will be able to avail themselves of its provisions as of 1 July, which is close in time. Have we left it too late to fit in with the Commonwealth's aspirational date of 1 July? When does the Government believe this legislation will become effective for consumers?

The bill inserts a proposed part 5G into the Fair Trading Act 1987, which contains provisions drawn from the new Australian consumer law relating to unfair terms in consumer contracts that are standard form contracts. Proposed section 60ZD will make void any unfair term in a consumer contract where that contract is a standard form contract, although the contract can continue to bind the parties if it is capable of operating without the unfair term. Of course, that is just common sense. Proposed section 60ZE provides that a term is unfair if it would cause a significant imbalance in the parties' rights and obligations arising under the contract, if it is not reasonably necessary in order to protect the legitimate interest of the party who would be advantaged by the term, and if it would cause detriment, whether financial or otherwise, to a party if it were to be applied or relied upon.

Proposed section 60ZH helps to define a standard form contract as one in relation to which one party has all or most of the bargaining power or one that was prepared by one party before any discussion related to the transaction occurred. Proposed section 60ZI excludes certain kinds of marine contracts and the constitutions of companies, managed investment schemes and other bodies. It will ensure that this is properly focused on the consumers or those for whom we are seeking this consumer protection measure. The director general or, with leave, a party to a standard form consumer contract can apply to the Supreme Court for a declaration that a term in contracts of that kind is unfair. That is the most important measure taken in the bill, because we can have a whole lot of rules and regulations that say that if something is unfair, a consumer can have a remedy. But in many cases that is impractical, particularly if the matter at stake is a relatively minor one in terms of financial cost and it is just not worth the consumer's while. But having regard to the impact of this across all consumers, the sort, as it were, could be very significant, in which case it is terrific that the director general will be empowered to act on behalf of all consumers.

As I indicated, we prefer a national approach because of the way markets and consumers behave. The alternative is a State-by-State approach. I note that Victoria has had some legislation that seeks to regulate unfair contracts for a number of years. But we are convinced that that is a very counter-productive approach both for business users, who would find themselves needing to fit in with multiple legal requirements in all the different States, and also for consumers. It is complicated enough for one to understand one system of contracts and to know what one can expect and what one's rights are under one system, but to have seven or eight different systems operating across Australia and New Zealand makes no sense whatsoever. We have seen in other areas of consumer law just how detrimental that has been, because it means that the whole law becomes impractical and the complexity of the arrangement renders the protection meaningless.

I look forward to seeing the impact that this will have on retirement village contracts, which I have mentioned previously. I would hope that as soon as these powers become available to officers of the Department of Fair Trading they will immediately look at retirement village contracts as the first place to start applying their minds to eliminating unfair provisions from contracts. I believe that not only will it assist individual consumers with that type of contract for whom they are trying to get some remedy, but also it will change the behaviour of the industry because there will be a general deterrence now to unfair provisions. My hope is that these corporations will be conservative in their contracts and will take additional steps to ensure that their contracts are understood. Further, I hope that greater effort is made to anticipate the potential for inadvertent hardship being inflicted on a person by a contract with a view to preventing such an occurrence in the first place. The great benefit of this bill will be in changing behaviour and preventing unfair contracts even more than providing a remedy to deal with rogue-like behaviour when it arises.

I look forward to seeing the impact of this legislation on anything to do with mobile phones and information technology contracts. I look forward to seeing the effect that it will have on contracts to which consumers are asked to give verbal agreement over the telephone and to which they find themselves tied without an opportunity of release. I am looking forward to seeing the verbal agreement contract and such practices put under closer scrutiny. I am looking forward to seeing what effect the legislation will have on conditions that are applied to terminating contracts in relation to which consumers have discharged their responsibilities for the minimum term required in the contract but then find they cannot seem to stop the service nor take the right action to terminate the service. That is a really big issue, because many of these contracts are set up with direct payments taken from the bank accounts of consumers. People often find they cannot stop their payments. Even when it is possible to terminate a contract, quite often one or two months notice is required before the service ceases. So that companies with whom you have a 12-month agreement are getting 14 months of income.

I have high hopes for this legislation. I hope that the Federal and State governments will put in the resources that are necessary to ensure that consumers are able to access this remedy, to ensure that patterns of abuse are identified and that actions are taken on behalf of all consumers. This legislation will modify the behaviour of companies, and all consumers will benefit as a result through a much higher standard of accountability in the contracts. In terms of businesses with management plans, inserting little nasties into people's contracts will become a cost risk and there will be a financial disincentive in terms of the company's bottom line to go down that track in the first place. I hope that the bill will have the teeth necessary to benefit all consumers. We do not oppose the bill.

Dr JOHN KAYE [3.58 p.m.]: I speak on behalf of the Greens on the Fair Trading Amendment (Unfair Contract Terms) Bill 2010, which is the first of two major steps towards implementing a uniform Australian consumer law. The Council of Australian Governments agreed to a single legal framework for consumer laws across Australia based on four key principles. The first was the creation of a seamless national economy. The second was to reduce the burden on businesses, which, of course, is worthwhile provided it does not occur at the expense of the protection of consumers. The third was to facilitate a well-functioning market. The fourth was to enhance individual consumer wellbeing. Given the inherent imbalance between consumers and the operators within markets and providers, especially where those markets are dominated by a small number of very large and, hence, extremely powerful providers, it is very important that such laws are biased towards consumers.

Australia, in particular, is witnessing an increasing concentration of market power across a number of retail sectors, specifically in food and smallgoods. Legislation is the only barrier left to prevent appalling exploitation of consumers. This bill, the first stage in providing a remedy, deals with unfair contracts and enshrines Australian consumer law in New South Wales law. The second stage, which presumably will be introduced in the second half of this year, will enshrine the national product safety and new consumer guarantees into New South Wales law and will thereby complete the process of unifying our national consumer protection system.

This legislation contains a number of substantial amendments to this State's consumer protection laws. The first and most significant amendment relates to the measure of unfairness. The current legislation empowers the courts to intervene in a contractual relationship between a consumer and a provider and to focus on procedure to measure unfairness. The current legislation provides for the examination of the circumstances surrounding contracts to determine whether unfairness is evident in the dealings between the provider and the consumer. That will be abandoned in favour of substantive unfairness. The bill provides for the examination of only the contract itself and the wording to assess whether it contains unfair provisions. This change has wide-ranging ramifications for the protection of consumers, and some of those ramifications are not yet entirely clear.

As the previous speaker said, all amendments to consumer laws require long-term, close and intensive monitoring to ensure that consumers remain protected. Although the Greens believe that there are clear benefits to be gained from using substantive fairness as the measure, the new legislation could expose consumers to a degree of risk and that must be closely monitored. We will be calling on the Government to implement steps to secure the rights of consumers and to ensure that nothing falls between the cracks. There should not be classes of consumers or individual consumers who are not protected.

This bill creates two remedies. The first relates to standard form contracts. Proposed section 6ZH provides that anyone can take an action under a standard form contract to any court or tribunal. That is a welcome step. It provides access for almost anyone in New South Wales to a low-cost jurisdiction such as the Consumer, Trader and Tenancy Tribunal. It also means that remedies will be available even for minor matters. The second class of actions involves declarations. An individual will be able to seek to bind all parties to any contract to a declaration of unfairness within that contract. Under proposed section 64B the director general or, with the leave of the Supreme Court, any party to a contract can take a cause for declaration to the Supreme Court. That does seem somewhat convoluted, but it is apparently supported by logic.

This legislation may not be as streamlined as Victoria's legislation, which provides that a declaration from the Supreme Court can be sought not only by a director general but also by any party to a contract. Unlike the New South Wales legislation, the Victorian legislation provides that anyone can apply to the County Court, which in New South Wales would be the District Court, or to the tribunal, which is the equivalent of our Consumer, Trader and Tenancy Tribunal. In many senses the Victorian approach is more open and provides more avenues for individuals to seek a wider range of remedies.

My understanding of the information provided by the advisers is that the Government is concerned about the Consumer, Trader and Tenancy Tribunal's making inconsistent decisions outside of its competence. Given the allegations that have been made about the tribunal being a repository for the Government's mates, it is not surprising that such a concern would exist. The Greens are not concerned about this structure and we are persuaded by the Government's argument that the public will still have remedies for unfair contract arrangements through access to low-cost tribunals or standard form contracts and being able to apply for a direction by the Supreme Court, with the leave of that court. Access to low-cost tribunals is important to maintain fairness. In designing any such arrangements there will always be a compromise between maintaining consistency in declarations and providing access. This bill may have achieved that. Again, we must monitor the effectiveness of the legislation and ensure that people retain access to jurisdictions to obtain appropriate remedies.

Proposed section 60ZF contains the grey list, which is an indicative, non-exhaustive list of the types of terms that may be found to be unfair. That is a useful inclusion in the bill. Although it is not in any sense exclusive—it refers only to terms that may be found to be unfair—it sets the tone in creating the types of issues that may be deemed to be unfair. It is clear that a great deal of thought has gone into ensuring that the legislation provides all parties to contracts with a standard of fairness that will protect consumers. The Greens do not oppose this legislation and the move to uniform consumer legislation. There is a lot of sense in the argument that as the economy becomes more national and less State based we should be looking to national standards for the protection of consumers. That being said, our economy is becoming increasingly global and many transactions cross national borders. The challenge will be for jurisdictions such as New South Wales and Australia to maintain levels of consumer protection in those circumstances. We have already seen the abysmal failure of labour laws to cross national borders. We are also witnessing the export of Australian jobs to low-wage, high-exploitation countries in the finance sector and other sectors of the economy. It is very important that laws protecting labour and consumers are maintained across national borders. The next 15 years of international law will be dominated by the imposition of standards of behaviour on all participants in all contractual arrangements, whether they are consumer contracts or contracts to provide services. All of these areas will require a global viewpoint—global economies require global regulation.

That is a challenging concept for all national jurisdictions and particularly national jurisdictions such as ours. It is challenging to envisage the way in which we would create a global framework of consumer protection. However, if those who expound the virtues of globalisation are serious about securing the rights of consumers, then part of the globalisation process must be in securing not only the rights of consumers but also the rights of the workforce in that market. Madam Deputy-President, I thank you for your tolerance of my straying from the substance of the legislation. As I said, the Greens do not oppose the bill.

Reverend the Hon. FRED NILE [4.09 p.m.]: On behalf of the Christian Democratic Party I support the Fair Trading Amendment (Unfair Contract Terms) Bill 2010. This important bill will amend the Fair Trading Act 1987 to enact provisions concerning unfair contract terms that will eventually form part of the new Australian consumer law when it commences. We need uniform legislation dealing with contracts. That will be implemented through this bill, so I am pleased to support it.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [4.10 p.m.], in reply: This bill is part of one of the most significant consumer protection reforms seen in Australia for generations. All governments have agreed to introduce an Australian consumer law that will be jointly administered by the Commonwealth, States and Territories. As a first step, the Commonwealth, New South Wales and Victoria are enacting laws to regulate unfair contract terms from 1 July 2010. This bill will amend the Fair Trading Act to protect consumers from the use of unfair terms in standard form consumer contracts.

Under the amendments contained in the bill only new contracts will be affected, as will existing contracts if the terms are renewed or varied from 1 July 2010. An unfair term in a standard form consumer contract is void, while the contract continues to operate without that term. Terms that describe the goods or services the consumer has agreed to buy, or disclose the upfront price the consumer has agreed to pay, are not covered. Only a court or the Consumer, Trader and Tenancy Tribunal can find a term unfair, after deciding it meets the three elements of unfairness and considering how transparent it is and the contract as a whole. The Director General of Fair Trading may apply to the Supreme Court for an order declaring a term to be unfair and a business that seeks to enforce a declared unfair term is in breach of the Fair Trading Act. A consumer may bring proceedings in a court or tribunal in relation to an unfair contract term and may also apply to the Supreme Court for a declaration, but only with the leave of the court.

The Hon. Catherine Cusack specifically sought clarification of the commencement date of the bill. I have been advised that the bill applies to an existing contract if it is renewed on or after 1 July 2010 or to a term of an existing contract if that term is varied on or after 1 July 2010 in relation to conduct that occurs after renewal or variation, but only the Commonwealth, Victorian and New South Wales governments are ready to commence with this law on 1 July 2010.

With regard to comments made by Dr John Kaye, I would like to clarify that there has been no lessening of consumer protection; rather, this bill expands protection to the consumers of New South Wales. Consideration of substantive unfairness is an additional measure. Measuring procedural unfairness is still available through the unconscionable conduct provisions and the Contracts Review Act. The Government is not concerned that the Consumer, Trader and Tenancy Tribunal will make inconsistent decisions. Rather, it is appropriate that only the Supreme Court will have these declaratory powers as a superior court of binding precedent. Also, the Supreme Court can have an effect on an entire class of contract. I thank all honourable members for their contributions to debate on the bill. As agreed by all members, consumer protection in New South Wales will be much improved by the passing of this bill. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

TABLING OF PAPERS

The Hon. Penny Sharpe tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of the Technical Education Trust Funds for the year ended 31 December 2009

Ordered to be printed on motion by the Hon. Penny Sharpe.

INDUSTRIAL RELATIONS AMENDMENT (PUBLIC SECTOR APPEALS) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.14 p.m.]: I move:

That this bill be now read a second time.

The Industrial Relations Amendment (Public Sector Appeals) Bill replaces and repeals the Government and Related Appeals Tribunal Act 1980 and makes amendments to the Transport Appeals Boards Act 1980 and Industrial Relations Act 1996 to facilitate a transfer of public sector appeals processes to the Industrial Relations Commission of New South Wales. The establishment of the national industrial relations system for the private sector has created an opportunity for the New South Wales Government to implement a number of practical administrative changes to streamline the public sector appeals process and facilitate a more efficient use of existing resources.

I emphasise that the Government is not seeking to dilute or reduce public sector employees' entitlement to question or challenge promotional or disciplinary decisions made by public sector employers. All existing eligibility criteria will be preserved. Rather, the purpose and intent of this amending legislation is to transfer the jurisdiction of the Government and Related Employee Appeals Tribunal to the Industrial Relations Commission

of New South Wales and to confer the functions of the transport appeal boards on the president of the commission. This shift forms part of a broader strategy implemented by the New South Wales Government to consolidate public sector employment matters within a single, specialist tribunal.

The Government recognises that public sector promotional and disciplinary appeals are unique issues, quite distinct from general industrial disputes, and that resolution of these matters requires a tailored approach. For this reason, the bill will not affect the fundamental principles which underpin the existing public sector appeals framework. Nor will it alter the format and style of hearing practices that have been refined over time and which public sector employees, employers and their representatives are familiar with.

The bill preserves current hearing processes for both informal and formal appeals under the Government and Related Appeals Tribunal Act and the Transport Appeals Boards Act, while granting the commission sufficient flexibility to make adjustments to suit prevailing operational and administrative requirements. However, it will introduce some procedural changes to ensure consistency with well-established procedures contained in the Industrial Relations Act 1996.

I turn now to the detail and practical effects of the bill. A key element is the creation of a new part 7 to be inserted into the Industrial Relations Act 1996. The new part 7 will give the commission jurisdiction to hear promotional and disciplinary appeals currently heard by the Government and Related Employees Appeals Tribunal relating to Crown employees employed throughout the general public sector and some statutory authorities. Importantly, it will maintain the current exclusions for temporary employees and officers above clerk grade 11/12 and recognise current agreements and arrangements negotiated between public sector employers and unions that remove appeal rights for certain workers.

Following commencement, all future exclusions under the new part 7 must be formalised in the form of an industrial instrument approved by the commission. The new part 7 gives the commission the same general powers that Government and Related Employees Appeals Tribunal currently has for the hearing of promotional and disciplinary appeals. It will also adopt current requirements under the Government and Related Employees Appeal Tribunal Act relating to the publication of notices and lodgement of appeals. This will provide consistency and continuity for industrial parties.

Longstanding evidentiary procedures contained in the Industrial Relations Act 1996 will replace existing procedures relating to the production of evidence, discovery of documents, and attendance of witnesses—with the exception of the following important areas. Firstly, the bill will preserve informal hearings of promotional appeals and will amend section 185 of the Industrial Relations Act to allow the commission to make rules and practice notes and to continue this practice. This is designed to give the commission maximum flexibility in the form and structure of hearings for informal appeals. Secondly, the bill sustains the requirement for attempted conciliation of disciplinary appeals prior to informal hearings taking place. Thirdly, the bill continues the existing procedural practice of requiring a public sector employer to present their case at least seven days before a scheduled disciplinary hearing as well as the established and customary order for the presentation of cases.

To ensure that public sector appeals remain a no-cost jurisdiction, the bill will amend section 181 of the Industrial Relations Act so that it will not be possible for the commission to award costs for proceedings conducted under the new part 7. A number of minor consequential amendments have been included in the bill to amend references to the Government and Related Employees Appeal Tribunal Act in other legislation in order to preserve current appeal rights following the repeal of the Government and Related Employees Appeal Tribunal Act.

I now turn to the amendments relating to the transport appeal boards. The transport appeal boards determine appeals lodged by public sector employees in relation to disciplinary and promotion decisions made by public sector transport authorities, such as the State Transit Authority, Sydney Ferries, the Roads and Traffic Authority, and RailCorp. Currently appeals lodged under the Transport Appeal Boards Act are required to be heard by a tripartite panel comprising the chairperson or a vice chairperson, an authorised representative of the employing transport authority, and a nominated member of the relevant union. The bill will amend the Act to abolish the positions of chairperson and vice chairperson and remove the requirement to constitute a three-person panel. Instead, the president of the commission will be authorised to hear and determine appeals. The president may delegate these functions to another member of the commission.

Consistent with the changes to the Government and Related Employees Appeal Tribunal appeal processes for general public sector employees, the bill will maintain existing appeal rights for public sector

transport authority workers. Longstanding procedures contained in the Industrial Relations Act will replace existing protocols relating to the production of evidence, discovery of documents and attendance of witnesses. The only exception will be that existing time limits for the lodgement and hearing of appeals under the current Transport Appeal Boards Act will continue to apply. Again, consistent with the bill's provisions in relation to general public sector workers covered by Government and Related Employees Appeal Tribunal, the bill will amend section 185 of the Industrial Relations Act 1996 to enable the president to issue rules and practice notes relating to the appeals process. This provision will give the commission maximum flexibility in the form and structure of transport appeal boards hearings.

To ensure that the public sector appeals jurisdiction remains cost free, the bill will amend section 20 of the Transport Appeal Boards Act to make certain that it will not be possible to award costs. Further, in relation to all promotional and disciplinary appeal matters, amendments to section 185 will authorise the commission to make rules and practice directions regarding evidentiary requirements, including the option for calling on expert witnesses with specialist knowledge to assist appeal proceedings heard under the new part. It is intended that appeals on questions of law in relation to decisions made by the commission will be heard by a Full Bench of the Commission in Court Session. This is consistent with standard appeal processes as outlined in the Industrial Relations Act 1996.

Folding the Government and Related Employees Appeal Tribunal and transport appeal boards functions within the commission will deliver a number of new administrative efficiencies by ensuring greater consistency in the administration and conduct of all proceedings, eliminating an unnecessary duplication of services and guaranteeing optimum use of government resources and infrastructure. The Industrial Relations Commission has a long and illustrious history as an independent umpire for the settlement of industrial issues and disputes in the New South Wales private and public sectors. Its commissioners and judicial members have significant skills, knowledge and expertise in all facets of the employment relationship and have contributed to the fair, equitable and productive working environment that exists throughout the State.

The Government has moved some amendments that are of a technical nature and are designed to preserve current promotional appeal rights for officers of departments. The inclusion of these amendments will ensure that officers of departments who unsuccessfully apply for vacant positions in other departments are notified by divisional heads to enable promotional appeals to be lodged within the required time frames. The amendments will also ensure closure of the recruitment process, thereby giving certainty to departments and applicants. That consolidation of the public sector appeal framework within its jurisdiction is a practical and sensible move, which will deliver tangible benefits to everyone from public sector employees to public sector employers, their representatives and, of course, taxpayers. I commend the bill to the House.

The Hon. GREG PEARCE [4.23 p.m.]: The Industrial Relations Amendment (Public Sector Appeals) Bill 2010 amends the Industrial Relations Act 1996 to provide for the Industrial Relations Commission to hear appeals in relation to promotion and discipline matters by public sector employees and transport employees in place of the Government and Related Employees Appeal Tribunal and the transport appeal boards. Crown employees employed through the general public sector and some statutory authorities have the right under the Government and Related Employees Appeal Tribunal Act 1990 to challenge or appeal certain public sector job promotions and individual disciplinary proceedings. The rights do not extend to temporary employees and some senior employees.

Under the Transport Appeal Boards Act public sector employees of transport authorities such as the State Transit Authority, Sydney Ferries, the Roads and Traffic Authority and RailCorp have similar rights of appeal in relation to promotion and disciplinary decisions. Following the referral of most industrial relations powers to the Commonwealth the workload of the Industrial Relations Commission has been substantially reduced and the Government has implemented a number of measures to streamline the various authorities and boards with industrial relations roles and also to better utilise the resources of the Industrial Relations Commission.

The abolition of these two appeal processes and referral of the work to the Industrial Relations Commission is said to better utilise the resources of government, consolidate public sector employment matters within a single, specialist tribunal, ensure greater efficiency and consistency in the administration and conduct of proceedings, and eliminate unnecessary duplication of services. The transport appeal boards currently require the appointment of a board member together with an authorised representative of the employer transport authority and a nominated member of the relevant union to hear the appeals. Now instead under the amendments the president or another member of the Industrial Relations Commission will now hear these appeals.

There is also provision to authorise the Industrial Relations Commission to make rules and practice directions regarding evidentiary requirements, calling witnesses and other procedural matters. As the appeals are meant to be heard in a no-cost jurisdiction, the Industrial Relations Commission cannot award costs. The consolidation of these various tribunals and the regularisation of their procedures is a more effective and efficient way of dealing with industrial relations matters affecting the public sector. In particular, eliminating cumbersome processes like those that applied in the transport appeal boards and replacing these with hearings before specialists provides for more fairness and rigour. There will be some cost savings to the public sector with the elimination of the additional tribunals and their procedures. The bill does not address the policy providing for appeals in relation to promotions or the appropriateness of the appeal rights and their administration. The New South Wales Liberals and Nationals do not oppose the legislation.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.26 p.m.], in reply: I thank the Hon. Greg Pearce for his contribution to the debate. The Industrial Relations Amendment (Public Sector Appeals) Bill 2010 is the result of a productive and constructive consultation process. Extensive discussions took place between NSW Industrial Relations, the Public Sector Workforce, which is part of the Department of Premier and Cabinet, and a number of government agencies including the Department of Health, Education and Training and RailCorp.

The Government would like to acknowledge the assistance also provided by Unions NSW, the Public Service Association of New South Wales, the Rail, Tram and Bus Industry Union, the Police Association of New South Wales and the New South Wales Nurses Association. These organisations provided valuable feedback on the operational aspects of the consolidation of jurisdictions, including on a number of technical matters. Their cooperation greatly assisted in the development of practical, user-friendly provisions, which will ensure a seamless transition to the Industrial Relations Commission. The Government appreciates their support for the implementation of the important changes that are now before the House.

The Government remains committed to examining new and improved ways to enhance the fairness and efficiency of appeal processes for public sector workers. Collaborative discussions between public sector agencies and relevant unions are ongoing and will continue to explore ways to refine recruitment and disciplinary practices, with the ultimate aim to achieve best practice in addressing merit and disciplinary issues in public sector agencies. In conclusion, this bill, together with the amendments moved by the Government in the other place, ensure that the current promotion and appeal mechanisms for the public sector are preserved. I thank the member for his contribution and commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

CONSUMER, TRADER AND TENANCY TRIBUNAL

Personal Explanation

Dr JOHN KAYE, by leave: I make a personal explanation. During the second reading debate on the Fair Trading Amendment (Unfair Contract Terms) Bill 2010 I implied that Government advisers had told my staff that the Consumer, Trader and Tenancy Tribunal lacked the confidence to be a declarative jurisdiction. I have been told—and I accept—that that is not what the Government advisers had said. The declaratory power in the legislation has been given to the Supreme Court because it is the superior court of New South Wales and it can make binding decisions that affect classes of consumer contracts rather than just individual claims. The

Supreme Court's decisions establish precedents that must be followed by all other courts in the State. I apologise for any misleading statement I might have made in respect of what the Government advisers may have told the Greens.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.30 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

The *Statute Law (Miscellaneous Provisions) Bill 2010* continues the established statute law revision program that is recognised as a cost-effective and efficient method for dealing with amendments of the kind included in the bill.

The form of the bill is similar to that of previous bills in the statute law revision program.

Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. That schedule contains amendments to 27 Acts and 2 Regulations. I will mention some of the amendments to give honourable members an indication of the kind of amendments that are included in the schedule.

Schedule 1 amends the *Guardianship Act 1987* to help streamline the process for service of applications and notices under the Act. The amendments will allow an application to the Guardianship Tribunal to be served separately from a notice specifying the time, date and place set down for the tribunal's hearing of that application.

This will remove the current requirement that the notice and application be served simultaneously which can delay service of the application on the parties. The amendments will also allow notices under the Act to be served on relevant parties by electronic means.

The *Fisheries Management Act 1994* is amended by schedule 1 to make it clear that the term "premises" includes boats for the purposes of a provision of the Act that allows the Minister to require the owner or occupier of premises within a quarantine area to take certain action as a consequence of the area's quarantine status.

The amendments to the Act will also allow regulations to prescribe what is a "lawful purpose" for an existing defence under the Act to the offence of possession of illegal fishing gear.

The amendments made by schedule 1 to the *Ombudsman Act 1974* will extend to the office of Information Commissioner certain provisions that are ancillary to the joint parliamentary committee's current power under the Act to veto proposed appointments to that office. The provisions concerned require the joint committee to take evidence relating to such proposed appointments in private and protect its deliberations from being improperly disclosed.

Schedule 1 makes various amendments to the Children and Young Persons (Care and Protection) Act 1998. Among these are amendments that will confirm that the parents of a child or young person subject to an application for a care order are to be served with a copy of any report supporting the application (in addition to the application, and any other supporting documentation).

Also included are amendments that will enable a division, or a part of a division, of the government service, or a part of an organisation (not just a whole department or organisation) to be accredited as a designated agency or registered as a relevant agency under the Act.

The amendments will also confirm that the Act does not regulate voluntary arrangements for out of home care provided to children or young persons outside of New South Wales.

Schedule 1 amends the *Animal Research Act 1985* to extend the duration of licences for the supply of animals for research purposes from 12 months to 36 months, unless sooner cancelled. This will bring the duration of those licences into line with the duration of accreditation as animal research establishments.

The amendments to the Act will also update various references, and make it clear that the existing power to make regulations for or with respect to fees or charges payable under the Act includes the making of regulations for or with respect to the waiver or refund of those fees or charges.

Amendments made by schedule 1 to the *Public Finance and Audit Act 1983* will make it clear that a controlled entity of a statutory body or government agency is required to have separate financial reports that are prepared and audited in accordance with the same general auditing requirements as apply to statutory bodies and government agencies under the Act.

Ultimately, these amendments will ensure that the separate financial reports of controlled entities are included in the relevant statutory body's or agency's annual report tabled in Parliament.

Schedule 1 amends the *Commission for Children and Young People Act 1998* to clarify that, as the review of the Commission for Children and Young People Act already commenced in March 2010, a further review does not need to commence in December 2010.

The amendments will also confirm that the review of the Act is to be tabled in Parliament within 12 months of being commenced.

Schedule 1 also amends the *Australian Museum Trust Act 1975* to make it clear that the Australian Museum Trust has the capacity to engage in commercial activities and to exercise its powers, authorities, duties and functions outside of New South Wales.

The last schedule 1 matter I will mention is an amendment to the *Real Property Act 1900*. Currently, in creating a folio of the register for land, the Registrar-General must record (among other things) the date of birth of any proprietor of the relevant estate or interest that the Registrar-General knows to be a minor.

To reduce the risk of fraudulent use of this information, the proposed amendment to the Act omits this requirement and instead requires the Registrar-General to record only the fact that such a proprietor is a minor.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology.

Schedule 3 repeals an Act, and provisions of other Acts and instruments, that are redundant or of no practical utility. The repeals also extend to provisions of Acts that contain only amendments that have commenced. The Acts and instruments that were amended by the amending Acts or provisions being repealed are up to date and available electronically on the legislation database maintained by the Parliamentary Counsel's office.

Schedule 4 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, and savings clauses for the repealed Acts. The schedule also contains (for abundant caution) a power for the Governor, by proclamation, to revoke the repeal of any Act or instrument repealed by the bill.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the beginning of the schedule concerned.

If any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for Government officers to provide additional information on the matters raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill.

I commend the bill to the House.

The Hon. RICK COLLESS [4.30 p.m.]: The Opposition will not oppose the Statute Law (Miscellaneous Provisions) Bill 2010. It is a relatively simple and straightforward bill, although I note that the Government has decided to introduce an amendment to delete a provision relating to the Guardianship Act 1987. The bill makes minor amendments to 27 Acts and two regulations, simply to update the changes that have occurred. I will briefly outline the types of changes the bill provides for. With regard to the Aboriginal Land Rights Act 1983, for example, the director general has been reclassified as the chief executive. Schedule 1 to the bill provides for the omission of references in the Act to "director-general" and the insertion instead of "chief executive" wherever occurring. They are the sorts of changes provided for in schedule 1.

Schedule 2 makes minor technical changes to the legislation that Parliamentary Counsel considers necessary for the proper and efficient operation of various Acts. Schedule 3 repeals certain Acts that are now redundant due to the introduction of other legislation. Schedule 4 contains general savings, transitional and other provisions of general effect. As I have said, the Opposition will not oppose the bill.

Dr JOHN KAYE [4.32 p.m.]: The Greens do not oppose the Statute Law (Miscellaneous Provisions) Bill 2010. However, I wish to address an aspect relating to schedule 1.7, which deals with the Australian Museum Trust Act 1975. The bill has two major effects on that Act. The first is that it clarifies that the reach of the museum should be both within and outside the State. Item [4] of schedule 1 inserts new section 8 (1B), which reads:

The powers, authorities, duties and functions of the Trust may be exercised and performed within or outside the State.

The Greens raise no objection with respect to that; indeed, the new section consolidates existing provisions regarding the powers of the trust and therefore it is a sensible measure. Our concern relates to new section 8 (1A), which reads:

The Trust may engage in commercial activities (including revenue generating activities) in furtherance of the objects of the Trust or for or in connection with or incidental to the exercise or performance of any power, authority, duty or function of the Trust.

Basically, the new section grants to the trust the right to engage in commercial activities. The Greens originally intended to ask the Government to delete new section 8 (1A) from the bill but following conversations with the Australian Museum Trust we now understand that deleting that provision would have unforeseen ramifications and would unnecessarily restrict what are very beneficial operations of the trust. Hence the Greens will not proceed with that request. However, we believe that granting the trust the power to engage in commercial activities without placing restrictions on those commercial activities is dangerous. Indeed, we believe that provisions such as that set out in new section 8 (1A) should not be incorporated in Statute Law (Miscellaneous Provisions) Bills. The new section makes a substantive change to the trust, and we would prefer to have seen such a provision in a separate bill. The provision rightly belongs within a separate bill, where it can be properly debated and subjected to potential amendments.

Organisations such as the Australian Museum need a clearly defined limit on the commercial activities they can engage in. No-one wants to see the Australian Museum, an important cultural and social institution within New South Wales society, turned into a purely commercial activity. No-one wants to see important social objectives being sacrificed to commercial activities. We do not believe that the current administration of the museum, or indeed even this Government, would intend that. However, providing a power for the trust to engage in commercial activities creates a risk that this legislation will open the floodgates. Where such a risk exists, and it is not by way of a minor or administrative change, it should not be incorporated in statute law miscellaneous provisions bills such as this; it should be incorporated in separate legislation, and it should contain far more detailed constraints and restrictions on the commercial activities the trust will be empowered to undertake.

Protecting the future of the trust, and its cultural and social values, is extremely important, and that could be compromised by this legislation. We take it on faith that the current administration of the museum and the current Government would not intend for that to happen. We may be naive in thinking that, but that is the best we can do because we understand that deleting new section 8 (1A) would unnecessarily restrict some very important activities that are highly beneficial to the people of New South Wales from going ahead. The Greens will therefore not seek to delete new section 8 (1A); however, we put the Government on notice that we have grave concerns about the provision. We ask the Government to introduce legislation that specifies more carefully the types of commercial activities and enshrines within the legislation protections against those commercial activities overtaking the other objectives of the trust.

Reverend the Hon. FRED NILE [4.37 p.m.]: On behalf of the Christian Democratic Party I support the Statute Law (Miscellaneous Provisions) Bill 2010. As members know, similar bills are introduced every year, usually at the end of the session, and they contain a series of minor amendments. Schedule 1 encompasses minor policy changes to Acts and statutory instruments that are too small or inconsequential to warrant the introduction of a separate amending bill or the making of a separate amending statutory instrument. For example, it refers to changes to the length of a term of office by a member of a statutory authority board. Schedules 2 to 4 deal with matters of pure statute law revision, comprising minor technical changes to legislation. These amendments cover, for example, minor corrections and changes relating to consistency of style and the repeal of spent legislation. At times typographical errors need to be corrected, and this can be done through this form of legislation.

The bill makes amendments to the Aboriginal Land Rights Act 1983, the Adoption Act 2000, the Animal Research Act 1985, and a number of other important Acts. As I said, they are only minor amendments and we do not disagree with any of them. We support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.40 p.m.], in reply: I thank all members for their contribution to this debate. The statutory law revision program is an important element in ensuring that we have workable laws that are easy to use. The Statute Law (Miscellaneous Provisions) Bill 2010 includes minor changes that would not warrant the creation of a separate bill as well as technical changes to legislation such as the repeal of spent legislation. There is a longstanding convention that when members raise objections to a particular change in a bill that that provision is removed. I note the contribution from Dr John Kaye as to the concerns of the Greens. I can assure him that the Minister's office is happy to engage in further discussions with him about the Australian Museum Trust Act.

I want to clarify that the Government is not withdrawing the Guardianship Act; it is the Lake Illawarra Authority Act. Opposition members have raised some concerns about that. As I stated before, the convention is that if there are any concerns the Government will remove the provision, and that is what the Government will do 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 to 4 agreed to.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.42 p.m.]: I move:

No. 1 Page 15, schedule 1.16, lines 25-34. Omit all words on those lines.

As I outlined in my speech in reply, this amendment is to remove the provision relating to the Lake Illawarra Authority Act. The Government was proposing to extend the maximum period that a member of the Lake Illawarra Authority may hold office from two years to three years. Because concern has been raised in that regard this amendment seeks to remove that provision from the bill.

The Hon. RICK COLLESS [4.43 p.m.]: I apologise for inadvertently getting the proposed amendment wrong when referring to it in my second reading address. I referred to lines 1-16 on page 15 instead of schedule 1.16, lines 25-34. The Opposition will not oppose the amendment.

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.

Schedules 2 to 4 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendment.

POLICE LEGISLATION AMENDMENT (RECOGNISED LAW ENFORCEMENT OFFICERS) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.47 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

This bill seeks to amend the Police Act 1990 to enable police officers from other jurisdictions to be recognised as law enforcement officers in New South Wales. Under the current Police (Special Provisions) Act 1901 these officers are referred to as "special constables". With origins dating back to the early nineteenth century, special constables were first established to deal with civic disturbances at a time when the New South Wales Police Force was still in its infancy. Today there are three types of special constables: serving police officers from other jurisdictions; New South Wales Police Force employees who perform security-type duties, such as those seen at New South Wales Parliament House; and employees from other law enforcement or New South Wales Government agencies, such as the RSPCA and local councils. While they undertake a range of law enforcement duties, special constables are not sworn New South Wales Police Force officers; the majority are police officers from other jurisdictions. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

Sworn police officers from other Australian States and Territories as well as officers from the Australian Federal Police are called on to assist the New South Wales Police Force with their investigations.

Police from other jurisdictions working as special constables in New South Wales can undertake a wide range of duties from regular joint border patrols with officers from the New South Wales Police Force to assisting when there is a declared state of disaster or emergency such as wide-scale flooding, cyclone or bushfire, to working on a specific investigation when an incident such as homicide has occurred in a border area.

This bill seeks to address issues affecting only one category of special constables, sworn police officers from other jurisdictions.

To enable them to effectively carry out their duties, this bill clarifies this class of special constables may be appointed as recognised law enforcement officers in New South Wales.

This proposal will be of particular benefit for those police involved in cross-border operations as the bill seeks to rectify any uncertainty surrounding the validity of "special constable" authorisations when these operations are underway.

Schedule 1 of this bill contains various amendments to the Police Act 1990.

A new Part 10B will be introduced into the Act to enable the Commissioner of Police to appoint members of any Australian jurisdiction to be appointed as a recognised law enforcement officer in New South Wales.

These appointments may be subject to certain conditions and will be in force for a period to be determined by the Commissioner.

For example, interstate police may be granted temporary powers just for the duration of a particular investigation, such as 6 to 12 months, while those police officers assigned to border areas or frequent interstate work may be permanently appointed.

That is, for the period the officer remains at the border station.

If an officer ceases to be a member of the police force of their jurisdiction, their status as a recognised law enforcement officer in New South Wales will be terminated.

The bill also gives the Commissioner the ability to suspend a person's status as a recognised law enforcement officer if he is of the opinion that the person is not a suitable person to be recognised as such.

Accountability mechanisms are also provided for.

The granting of a person as a recognised law enforcement officer in New South Wales affords them all of the functions, including all of the powers immunities liabilities and responsibilities that a police officer of the rank of constable has.

This includes the powers a constable has in the Law Enforcement (Powers and Responsibilities) Act 2002 [LEPRA].

Under LEPRA, key police powers such as powers of arrest, search and seizure, and the power to request identification can only be exercised by police officers.

Through this bill, references to a police officer in any other Act or statutory instrument will be taken to include a reference to a recognised law enforcement officer.

This includes references in LEPRA and division 8A of part 3 of the Crimes Act 1900, which relates to assaults and other actions against police and other law enforcement officers.

Schedule 2 of the bill formalises these new arrangements through the repeal of section 101 (1A) (a) of the Police (Special Provisions) Act 1901, which relates to the appointment of police officers from other jurisdictions

The remaining classes of special constable are not affected by this bill.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.48 p.m.]: The New South Wales Liberal-Nationals Coalition does not oppose the Police Legislation Amendment (Recognised Law Enforcement

Officers) Bill 2010, which seeks to amend the Police Act 1990. As members may be aware, the status of special constable has been a part of the New South Wales legal system since 1855. The creation of the English legal system, the New South Wales Police Regulation Act, brought them into New South Wales. Section 12 stated:

In all cases where it shall appear to any Police Magistrate or any two Justices that any tumult riot or felony has taken place or may "be reasonably apprehended in any city, town or place and he or they shall be of opinion that the ordinary constables ... are not sufficient for the preservation of the peace ... it shall be lawful for any Police Magistrate or any two Justices to nominate and appoint ... so many as he or they shall think fit of the householders or other persons ... residing in or near such city, town or place* to act as special constables for such time and in such manner as to the said Police Magistrate or Justices shall seem fit ..."

The intention of this legislation is to enable police officers from other Australian States and Territories and the Australian Federal Police to be recognised as law enforcement officers in New South Wales. Under current legislation these police are referred to as special constables. Police from other States and Territories and Federal Police on occasion and for particular purposes are called on to assist our State's police with investigations. Police along our State borders also are regularly called upon to undertake joint border patrols. This bill seeks to clarify the authority of these officers and the functions, powers, immunities, liabilities and responsibilities that are vested in their role. Under the current Law Enforcement (Powers and Responsibilities) Act, commonly known as the LEPRA legislation, law enforcement officers will have the powers of arrest, search and seizure and the power to request identification.

The aim of this bill is to simplify the process of allowing police from neighbouring States to enter New South Wales and undertake policing duties in particular circumstances. This is often necessary where officers are stationed close to State borders and where crimes cross borders. It also may be used in large-scale emergency situations, such as occurred during the Victorian bushfires, where reinforcements from other States are required to meet law enforcement operations and duties. Appropriately, the length of appointment can be varied to suit the circumstances of the requirement for recognition, and appointment ceases when the employment of a recognised officer ceases.

I hope that this legislation is the first step in improving the relationship between New South Wales and neighbouring States in relation to law enforcement and justice systems. Across Australia, the States are looking at ways to deal with cross-border issues. As members may be aware, Western Australia, South Australia and the Northern Territory all have enacted legislation that puts in place a cooperative approach with respect to police, the courts and the justice or corrective services systems. The Cross-border Justice Scheme was established in 2003 to develop legislation allowing police, courts and corrections to operate in a multi-State environment. In 2003 then South Australian Premier Mike Rann said:

Anecdotal reports from police suggest the investigation of many minor offences is not pursued owing to the expense and time obtaining an extradition warrant to a court authorised to hear the charge. If that is true then it is not in the interests of justice and needs to be addressed.

The cross-border justice legislation allows magistrates to deal with charges from Western Australia, the Northern Territory and South Australia. It also allows police to make arrests and investigate offences in border areas and take offenders across borders. If a court matter can be heard sooner in another jurisdiction it allows the defendant to appear in another State. The Cross-border Justice Scheme applies to communities and areas close to the State borders, an area of approximately 450,000 square kilometres. After contacting the New South Wales Police Association I understand that the association was consulted prior to the introduction of this legislation and it is supportive of its aims and objectives.

I have been involved in extradition orders and have dealt with offenders who have committed crimes in this State and fled interstate. These offenders use interstate laws as a means of avoiding being brought back to New South Wales to face court. This legislation is a positive move that will assist police in the conduct of their duties. It has been some time in the making, given that the groundwork legislation was enacted back in 2003 in conjunction with South Australia, Western Australia and the Northern Territory. Although it is seven years later, we welcome the fact that New South Wales is finally introducing similar legislation. We look forward to the progression of this legislation from its current form so that police are not hamstrung by boundaries. I can assure the House that criminals are not hamstrung by State boundaries.

The Hon. SHAOQUETT MOSELMANE [4.53 p.m.]: The provisions contained in the Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010 will benefit sworn police officers in other jurisdictions who assist the New South Wales Police Force in the conduct of certain operations. Some examples of this include the provision of assistance during times of crisis, such as a declared state of disaster or emergency, joint patrols in border areas and working on a specific investigation. For example, recently sworn

members of the Victorian Police Force and a Victorian Police helicopter provided assistance to search for two males involved in a fatal attack on a 62-year-old man at Buronga on the New South Wales-Victoria border earlier this month. A 17-year-old boy was later charged with his murder.

The transition of special constable arrangements to the Police Act 1990 will provide officers with greater clarity and certainty when discharging the duties and functions of a police officer in New South Wales. These provisions clearly state that recognised law enforcement officers have and may exercise all of the functions that a police officer of the rank of constable in New South Wales has and may exercise under any law of the State, including under common law and this Act. This includes the powers a constable has in the Law Enforcement (Powers and Responsibilities) Act 2002, or the LEPRA legislation.

References to a police officer in any other Act or statutory instrument also will be taken to include a reference to a recognised law enforcement officer. This includes references in the LEPRA legislation and division 8A of part 3 of the Crimes Act 1900, which relates to assaults and other actions against police and other law enforcement officers. The Police (Special Provisions) Act 1901 was introduced in colonial days, when a regular police force in New South Wales was in the process of being established. Through this bill existing arrangements for sworn interstate and Federal police officers will be brought into the modern age. Therefore, I commend this bill to the House.

Reverend the Hon. FRED NILE [4.56 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010. The objects of the bill are to repeal the provisions of the Police (Special Provisions) Act 1901 that allow the appointment of police officers from other Australian jurisdictions as special constables; to amend the Police Act 1990 to include provisions for the appointment by the Commissioner of Police of police officers from other Australian jurisdictions as recognised law enforcement officers; and to confer functions on recognised law enforcement officers similar to those exercised by New South Wales police officers of the rank of constable.

This important legislation will facilitate greater cooperation between the New South Wales Police Force and neighbouring police forces in Victoria, Queensland, South Australia and the Northern Territory. The bill is simple and straightforward. Currently we have three types of special constables: serving police officers from other jurisdictions; New South Wales Police Force employees who perform security duties, such as officers at Parliament House; and employees from other law enforcement or New South Wales government agencies, such as the RSPCA and local councils. This bill seeks to address issues that affect only one category of special constable, that is, sworn police officers from other jurisdictions. While they undertake a range of law enforcement duties, special constables are not sworn New South Wales Police Force officers; the majority are police officers from other jurisdictions. The Christian Democratic Party is pleased to support this bill, which will assist our police to combat crime in our State, particularly in the border areas.

Ms SYLVIA HALE [4.58 p.m.]: The Greens do not oppose the bill. Provided police from other jurisdictions are subject to appropriate oversight and disciplinary procedures, the Greens do not object to the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.59 p.m.], in reply I thank honourable members for their contributions to debate on the Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010. The New South Wales Police Force enjoys excellent working partnerships with the men and women of police forces from other Australian jurisdictions. In a recent example police officers from New South Wales and the Australian Capital Territory were involved in a successful operation that resulted in three people being charged with significant drug offences following a raid in Queanbeyan on 5 May this year. These arrests followed a month-long, cross-border investigation between the Monaro drug and property unit and the Australian Capital Territory Police drug investigations team.

Also in May this year the efforts of two New South Wales police officers were formally recognised when they crossed the border into Coolangatta, Queensland to break up a brawl on Australia Day in 2008. Both those officers, who are from the Tweed-Byron Local Area Command, were recipients of Australian bravery medals for their actions on that day. On a routine basis New South Wales Police Force officers stationed in border towns and cities join forces with interstate police in the conduct of routine patrols of their areas. Their collaborative efforts ensure that the needs of their community can be served more efficiently. This bill will build on the already successful foundations of that partnership. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Ms LEE RHIANNON [5.01 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. 147 outside the Order of Precedence, relating to the Game and Feral Animal Control Repeal Bill 2010, be called on forthwith.

Reverend the Hon. FRED NILE [5.01 p.m.]: I do not believe this matter is urgent. It is urgent that we still have control and methods of eradicating feral animals, which are killing our native animals. I am very concerned also that the bill being brought in urgently and without warning will impact adversely on law-abiding shooters. As Dr John Kaye warned the House last night: Who knows what could arise from this private member's bill. He said that a very real possibility was that there could be violence on the streets perpetrated by shooters. Perhaps this bill is just another example of discrimination against lawful licensed firearm owners in this State. I am concerned that the bill may lead to violence on the streets, and I therefore oppose urgency.

The Hon. ROY SMITH [5.02 p.m.]: This matter is clearly not urgent. I wonder what the constituents of the Greens would think if they heard that given an opportunity to bring forward a particular matter Ms Lee Rhiannon chose to bring forward the Game and Feral Animal Control Act. I am confident that there are a number of other matters on the *Notice Paper* of far more importance than this that should be debated by the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 22

Mr Catanzariti
Mr Cohen
Mr Della Bosca
Mr Foley
Ms Griffin
Ms Hale
Mr Hatzistergos
Dr Kaye

Mr Kelly
Mr Moselmane
Reverend Dr Moyes
Mr Primrose
Ms Rhiannon
Mr Robertson
Ms Robertson
Mr Roozendaal

Ms Sharpe
Mr Veitch
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Ms Voltz

Noes, 17

Mr Ajaka
Mr Brown
Mr Clarke
Ms Cusack
Ms Ficarra
Mr Gallacher

Miss Gardiner
Mr Gay
Mr Khan
Mr Mason-Cox
Reverend Nile
Ms Parker

Mrs Pavey
Mr Pearce
Mr Smith
Tellers,
Mr Colless
Mr Harwin

Pair

Mr Obeid

Mr Lynn

Question resolved in the affirmative.**Motion agreed to.****Order of Business****Motion by Ms Lee Rhiannon agreed to:**

That Private Members' Business item No. 147 outside the Order of Precedence be called on forthwith.

GAME AND FERAL ANIMAL CONTROL REPEAL BILL 2010**Bill introduced, and read a first time and ordered to be printed on motion by Ms Lee Rhiannon.****Second Reading****Ms LEE RHIANNON** [5.11 p.m.]: I move:

That this bill be now read a second time.

This very timely bill repeals the Game and Feral Animal Control Act 2002. As a result of the passage of this bill the Game Council will be abolished, the restricted game hunting licensing system will be repealed, recreational hunting will be prohibited on Crown land and in State forests and other functions now performed by the Game Council will be handed over to the New South Wales Department of Primary Industries. As we are all aware, Mr Ian Macdonald recently resigned as the Minister for Primary Industries, so it is now time to abolish one of the bodies he oversaw, protected and allowed to operate despite some appalling practices. Since it was established in 2002 the Game Council has acted as both warden and poacher. We have had hunters regulating hunters.

The Hon. Robert Brown: That is as it should be.

Ms LEE RHIANNON: I acknowledge that interjection. As the Greens have done many times in this place, I acknowledge that the control of feral animals needs urgent attention, and the Department of Primary Industries has the necessary expertise to achieve that control. One of the problems is that the Game Council is an unaccountable body. It has no targets, it has not complied with annual reporting obligations and is not subject to independent monitoring. That is despite many attempts to get the council on track. Former Minister Macdonald provided cover for those who established and ran the council—which Shooters Party members believe is their right.

The Government has provided the Game Council with substantial loans despite the fact that we were told repeatedly that it would be self-funded. That money should be spent on employing professional hunters. A professional approach is the key to controlling feral animals. Hunting and shooting is not always the best solution. We need a strategic approach implemented by professionals, but the Game Council has been undermining that. It is time to stop hunting on public land and in State forests, particularly because of the enormous risks to the public.

The Hon. Duncan Gay: How many people have been shot?

Ms LEE RHIANNON: I acknowledge that interjection because I imagine that The Nationals would be quite excited by what is going on. The Game Council came about because of an agreement between the Labor Government and the Shooters Party that eroded The Nationals' territory. The Nationals are probably keen to get a little opening.

The Hon. Duncan Gay: Answer the question. You said people are at risk. No-one has been shot.

Ms LEE RHIANNON: Surely the Deputy Leader of the Opposition heard about the bullet shot into a house in the Illawarra that was attributed to hunting in that area.

The Hon. Robert Brown: It was a drive-by.

Ms LEE RHIANNON: It is interesting how certain the member is about that. Given the interjections, I assume that members will support the continuation of this debate on a future day so that we can hear their point of view.

The Hon. Robert Brown: By all means. Absolutely.

Ms LEE RHIANNON: I acknowledge that interjection. We have heard many wild claims from Game Council supporters about the savings and benefits it produces. However, none of those statements is supported by research. Publicly available research does not come into the council's orbit. Public funds should be directed to effective management of feral animals.

The Hon. Duncan Gay: Like what?

Ms LEE RHIANNON: We need professionals to deal with the problem. I know the Deputy Leader of the Opposition has trouble with that.

The Hon. Duncan Gay: You referred to what should happen. Tell us what should happen.

Ms LEE RHIANNON: I look forward to the Deputy Leader of the Opposition's supporting the progress of this legislation so that we can explore those measures in detail.

The Hon. Duncan Gay: I am asking a question. You are making statements. They are just platitudes; there is no substance.

Ms LEE RHIANNON: I acknowledge the Deputy Leader of the Opposition's interjections. The Game and Feral Animal Control Act 2002 was an ugly piece of legislation. It represented unashamed capitulation to the gun lobby and the Shooters Party. That statement can be made because on 13 December 2001 Mr John Tingle, a former member of this place, stated in a publication entitled "Newsletter from the Office of John Tingle MLC":

This was put together by hunters, for hunters. Hunter organisation numbers effectively will control the Game Council; the chairman must be a hunter; and any money derived will be used to the benefit of hunters.

Fortunately Mr Tingle spelt it out very clearly and it is on the record. As we know, the Carr Government delivered for the Shooters Party and the hunters. That legislation effectively robbed the Coalition of part of its territory. It out-Nationalled The Nationals and captured many of the conservative rural votes, and The Nationals' vote has declined consistently ever since.

The 2002 bill was deceptive, as is the Game Council. It is all about recreational hunting and nothing more. The Game Council would never have seen the light of day if it were judged on its merits. As I said, it is an unaccountable body that puts public safety at risk and sucks millions of dollars out of the public purse. It is also the cause of unacceptable animal suffering and is a setback to the management of feral animals. The Game Council has no targets for feral animal eradication—it simply produces scorecards showing the number of animals killed. There is no independent monitoring of its work, and we know how it determines the number of animals killed.

In April last year the Environmental Defenders Office made the interesting observation that the council's claims are really about relatively small numbers of animals killed, against which we should weigh up the relatively high cost of killing them. Even if you want to argue that shooting feral animals is the way to go—and it is certainly not the Greens position or that of the Invasive Species Council and those who bring a professional approach to this matter—you have to concede that it is an extraordinary waste of money.

With regard to the Game Council a culture has developed whereby it is running the show albeit with public money. It has released neither a 30-year strategic plan nor a five-year business plan. We heard from former Minister Mr Ian Macdonald that such things are commercial in confidence. How can he make such a claim when we are talking about public money and a supposedly public body? For quite a while annual reports were not published properly. A number of complaints were lodged. There has been some improvement but it still does not meet its full obligations as a publicly funded body. Any review of the Game Council is quite funny because it is stacked by its own members; it is unaccountable, whatever way one looks at it.

In 2009 it became clear that some interesting tendering arrangements were going on, which again highlighted the dubious way in which the Game Council operated. A tender was awarded by the Game Council to a company that the chair of the Game Council had managed for 10 years. I am referring here to Mr Robert Borsak, the director of Design Base before it won the tender to host and design the council's game licensing system. The *Sydney Morning Herald* reported that Mr Borsak left the company two years before the contract was awarded but the director and majority shareholder at the time was Mr Borsak's long-time business associate James Armstrong, with whom he has sat on at least 15 boards. This again highlighted the dubious way in which the business operations of the Game Council were managed.

Let us be clear about this bill. Hunters will be permitted to hunt animals using any method they wish except for poison baiting. That is what the Game Council and the bill that was passed in 2002 set up. We are talking about hunting animals with a club, a knife, a bow and arrow, and firearms. All are allowed. We have heard from Shooters Party members and their strong supporter Mr Macdonald that the provisions of the Prevention of Cruelty to Animals Act will cover any issues related to animal cruelty. What a farce. This was the cover put in place by the Game Council and its backers. Who is present out in the bush to bear witness to any incidents of cruelty that may occur? I remind members that recently a young orphan fawn was found in the Illawarra in an area in which Game Council hunters had been operating. Locals suggested that this was the result of non-professional hunters being used to cull animals in the Illawarra; recreational shooters left behind the orphan fawn.

The Hon. Robert Brown: It should not have been touched—

Ms LEE RHIANNON: I note the interjection that the fawn should not have been touched, but Mr Brown fails to acknowledge that recreational shooters have responsibilities with regard to the handling of young animals that are found, and clearly those responsibilities were not met. But that is par for the course for the way hunters operate. We acknowledge that New South Wales has a problem with invasive species, which are threatening biodiversity and in many places damaging our natural environment.

The Game Council is a bankrupt model for controlling feral animals. What the Game Council calls conservation hunting is scientifically unsound and environmentally damaging. Feral animals are a problem but they require professionally planned control programs, not an ad hoc, unaccountable approach. Casual shooting stimulates breeding. Mr Brown knows that and he knows that many hunters want to hunt animals on the weekend to ensure that stocks are retained. There have been many examples of animals being left alive so that they can breed up.

Conservation hunters are not trained experts; they are recreational shooters. Rarely do they have local knowledge. They are out there shooting feral animals, often within firing distance of homes, workplaces and popular recreation spots. I am surprised by how often the Shooters Party members and The Nationals, who are trying to badge themselves up with this scheme at this late hour, try to deny that, given that these activities can occur in State forests. I am sure many members have seen those pathetic little signs warning people of the possibility of shooting activities in State forests. It is appalling.

The Hon. Robert Brown: How many people have been shot in State forests?

Ms LEE RHIANNON: I acknowledge that interjection. I find it quite troubling. Do you want people to be shot to prove what a failed scheme it is?

The Hon. Robert Brown: No, but it sounds like you do.

Ms LEE RHIANNON: Most definitely not, and that is another reason to remove the Game Council and to stop these activities before there is a tragedy. There have been instances of animal suffering and we do not want to increase those. I shall put on record the concerns of people in country areas about the activities of hunters in their immediate vicinity.

The Game Council itself is a questionable organisation. But we should not be surprised, because it is clear from the words of Mr Tingle that it is all about hunters, and it is there for hunters. It is important to remember what constitutes the Game Council. It is further argument for disbanding this body and for giving support to and passing this bill. Eight members of the Game Council are members of hunting organisations and only one member has an animal welfare background. Robert Borsak, who I understand is a former vice-chairman of the Shooters Party, is paid more than \$340 a day to sit as chairman of the Game Council.

Mr Robert Brown, who was also the chair of the Game Council before he came to this place as a member of the Shooters Party member, was instrumental in setting up the body and has a great deal of inside knowledge about how that was achieved.

The Hon. Robert Brown: I do have a great deal of inside knowledge, yes.

The Hon. Roy Smith: What about me? I was also on the Game Council.

Ms LEE RHIANNON: There are some interesting divisions between Mr Smith and Mr Brown when it comes to their funding arrangements for their party, so I am happy to get those interjections on the record. Many concerns have been raised over the years about this body. New South Wales Young Lawyers have raised a number of concerns, in particular the use of hunting dogs. Pig dogging is a most disturbing practice. One must wonder, after hearing about the details of this activity, how it could be associated with the control of feral animals. New South Wales Young Lawyers argue that the use of dogs in hunting should not be permitted. A study commissioned by the United Kingdom Government, the Burns inquiry, found that hunting with dogs causes extreme levels of stress to the hunted animal. It is incredibly cruel method of hunting. The use of dogs in hunting also puts the hunting dog at risk of injury. "Such cruelty to animals should not be condoned", are the final words in that study by New South Wales Young Lawyers.

In pig dog hunting pigs are pursued and caught by dogs and then killed by hunters with knives. The activity is not legal in many States; however, it is legal in New South Wales. Again, this is one of those examples that highlights the fact that the Game Council's activities and the bill that was passed in 2002 have nothing to do with feral animals. It is about a body that can use public money to fund a whole range of hunting activities. How can anyone suggest that a pack of dogs pursuing one pig is a successful method of controlling animals that do considerable damage to our natural habitat? I pay tribute to Lynda Stoner, who recently was featured in the *Sydney Morning Herald* after she attended a pig dog workshop one weekend. She made the point that controlling feral animals was not a feature of the workshop.

Feral pigs are a huge environmental threat but pig dogging, which involves enormous animal cruelty and risks causing widespread movement of pigs, is not an effective method of control. Feral animal control should be undertaken in a scientific and controlled manner. What the Game Council considers to be conservation hunting is scientifically unsound and environmentally damaging, and pig dog hunting demonstrates that point. It is worth remembering that pig dogging is illegal in Queensland. Dogs there can only flush out pigs. It is illegal in Western Australia. It is illegal in national forests in South Australia but it is legal on private land. It is legal only in Victoria, Northern Territory and New South Wales. In the twenty-first century it is a backward practice that we should move away from.

The essence of my bill highlights why the legislation should be repealed, and that is the serious mismanagement of the financial arrangements of the Game Council. The Game Council is struggling to stay afloat. It does so only because of the massive injection of public money. The New South Wales Auditor-General, in his last audit of the council's finances, raised significant concerns about the ability of the Game Council to ensure its ongoing financial viability. The Game Council has been propped up by increasing levels of government funding, from \$1.25 million in 2002-03 to a peak of \$3.52 million in 2007-08.

The Treasurer approved \$5 million in New South Wales TCorp loans between 2004-05 and 2006-07, \$2 million of which the Government stepped in to pay off last year. It is an extraordinary situation that the Government is writing off loans to the Game Council, which time and again we have been told would be self-funded. As Mr Brown, Mr Smith and Mr Tingle know, one of the key arguments for the council's establishment was that it would be self-funded and would not cost the taxpayers any money. Mr Brown and Mr Smith will not interject to say that statement is incorrect.

In October 2007 the Cabinet Standing Committee on the Budget approved additional recurrent funding and requested the development of a business plan by 30 June 2008. Former Minister Ian Macdonald came to the rescue and refused to release the 2008 to 2012 business plan for public scrutiny, deeming it commercial in confidence. At the time he said that the business plan was the basis for continued funding and addressed ongoing financial viability. It is farcical for the Minister to say that the business plan is commercial in confidence and that he would not make it public and expose the Government to scrutiny because he could not justify it on a financial basis.

At the time I questioned the Minister, but he refused to provide a date when the Game Council was expected to be self-funding. The Government would only say that it had developed a number of scenarios

regarding the future funding of the Game Council. That shows the loose nature of the Game Council's operations. Most people do not see it as a public body. They regard it as a group of mates doing something they enjoy, working towards different ways of going hunting across parts of this State. The Game Council's poor financial management continues, despite an increase in the number of restricted game hunting licences issued following an advertising blitz in 2008-09 across Sydney and rural areas. Members would have seen these advertisements, placed at great cost to the taxpayers.

Figures obtained by the Greens show that from 2004 to 2009 the New South Wales Game Council spent well over \$1 million of public money in advertising, and that its annual advertising budget has increased more than fivefold since 2004-05. This advertising campaign was intended to encourage more shooters, which would deliver for the Shooters Party. It was about expanding the number of shooters because down the track the Shooters Party gained a financial benefit. In 2004-05 the Game Council obtained a 10-year, \$2 million loan from New South Wales TCorp to finance its operations. At the time the expectation was that council would be self-funded within five years. By 2005-06 the Game Council had already drawn down the entire \$2 million.

In March 2006 former Treasurer Michael Costa, who had only come into the job in February 2006, knew what he had to deliver for the Shooters Party members of Parliament. He approved an additional \$2 million grant to keep the council afloat. In 2006-07 Treasurer Costa agreed that council could seek another TCorp loan that did not exceed \$1 million, with the expectation that the council would be fully self-funded from 2007-08. Everyone was told that the council was about to be self-funded so it was okay for the loans to be approved. Mr Brown and Mr Smith always knew that this was a con, yet they used that as cover to obtain more public money. During 2007-08 the Government had to step in and repay the Game Council's \$2 million outstanding loan from TCorp. That cannot be justified. Those were the financial arrangements of the Game Council.

Throughout this period the Game Council continued to push ahead with its agenda and it had in its sights hunting in State forests and national parks. Hunting in State forests commenced in 2006, which is when our phones started ringing hot because people were understandably very worried about their safety. They had a right to be concerned that hunters were walking through their properties, on many occasions not knowing their whereabouts. I will place on record some comments from a couple of people who have raised concerns. Robert Bignell from Brunkerville stated:

For almost 30 years my home in Brunkerville was surrounded by state forest, a tiny wildlife refuge.

In 2005 our State Government entered into a deal with The Shooters Party that allowed "hunting" up to the boundaries of my property.

On one occasion, I was confronted with armour-plated hunting dogs and their owners drinking from my dam. Signposting had simply been ignored, and an ugly scene ensued.

No-one should have to live with that uncertainty. David and Suzanne Alder also raised their concerns. They had meetings with the Game Council and actually thought they were getting somewhere. They stated:

We had a face to face meeting with the Game Council on our property ... to discuss our concerns over shooting in the State Forest. They showed an interest in our concerns and a willingness to try and address some of those concerns. Action will speak louder than words. We are very concerned that in many of the letters we received we were assured that detailed maps would be issued to hunters highlighting exclusion areas ... the issues of these maps is still six months away ... We also could be given no assurances other than the careful training of the hunters (see our attachment about lost hunters).

It was a common complaint that hunters trampled through people's property and people were very fearful. A number of people who have left the Game Council have become whistleblowers, and we read some informative articles in last weekend's *Sydney Morning Herald*.

Comments have also been received from Andrew Glover, a former managing ranger at the Moss Vale Rural Lands Protection Board who has been described as one of the State's most experienced professional feral pest shooters. Andrew Glover said in an interview with a *Sydney Morning Herald* journalist that his big fear is that when popular hunting areas become depleted there will be pressure among the hunting fraternity to restock. That is another of the arguments that show what a farce the Game Council is, and that includes its entire method of operation. I acknowledge that the Game Council may be able to show that large numbers of animals are being shot. But there are no targets, there is no methodology there, and there is no accountability, and certainly a massive degree of animal suffering is occurring.

For so many reasons, the bill should be supported. The bill is necessary because since 2002 the regime operating under the Game Council in New South Wales is just too wasteful of public money, too potentially dangerous to public safety, causes far too much animal suffering, and indeed is a setback to managing feral animals.

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

DISTINGUISHED VISITORS

The PRESIDENT: I acknowledge the presence in the President's Gallery of a former member of the Legislative Council, the Hon. John Jobling.

DUTIES AMENDMENT (NSW HOME BUILDERS BONUS) BILL 2010**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION AMENDMENT 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. Michael Veitch 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.

HOME BUILDING AMENDMENT (WARRANTIES AND INSURANCE) BILL 2010**Second Reading**

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.42 p.m.], on behalf of the Hon. Peter Primrose: I move:

That this bill be now read a second time.

The Government is today introducing the Home Building Amendment (Warranties and Insurance Bill) 2010. The bill is being introduced urgently to overcome the effect of a recent Court of Appeal decision in the case of *Ace Woollahra v The Owners—Strata Plan 61424 and Building Insurers' Guarantee Corporation*. That decision has created considerable uncertainty in relation to the statutory warranty and home warranty insurance schemes, and has cast significant doubt on whether the scheme protects all home owners as intended. The bill will amend the Home Building Act to clarify the entitlements of home owners to statutory warranties and home warranty insurance, where loss is suffered due to defective residential building work. The bill will change the Act to protect home owners who have building work done, as well as subsequent purchasers of homes and apartments in circumstances where it now appears no benefits are available.

The Home Building Act provides two forms of protection against defective residential building work to home owners who engage builders to carry out building work and those who buy a home from such persons. First, it gives home owners a statutory warranty against defective building work undertaken by the builder. These warranties are implied into contracts to carry out residential building work. The home owner can pursue legal action against the builder for the work required to fix the defect. Secondly, the Act is intended to allow the home owner to claim under insurance for rectification of the work or monetary compensation. These benefits were always intended to be available to the person who owned the land on which the building work was done, as usually that person would suffer any relevant loss. As it was expected that only the landowner would be the person entering into the contract with the builder, the Act did not specify or identify the person contracting with the builder. The intended beneficiary of the schemes was merely referred to as "the person obtaining the benefit of the statutory warranties" or, for insurance, "the person on whose behalf the work was done".

These benefits are also extended to any person who is a subsequent purchaser or "successor in title" for a period of up to a possible maximum of seven years. So, in these cases, the home owner and any subsequent purchaser will get the benefits of the Act. However, in some instances the contract with the builder might be entered into by a person who is not in fact the landowner. For example, a husband might enter into a contract with a builder to undertake residential building work on land owned not by him but by his wife. Similarly, a company that owns land might be developing it into a residential complex, but the contract to do the building work or to have the work done by a builder is entered into by a subsidiary of the company. It was always thought that the benefits of the Act would still flow to a landowner even if someone else was the contracting party. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave granted.

It was also thought that any successors in title would similarly be protected.

Insurers, builders and others accepted that this was the way the Act was intended to work and dealt with claims accordingly.

However, on 17 May 2010 the Court of Appeal took a different view.

The court held that only the person who actually contracts with the builder and that person's successors in title are entitled to the benefits of the statutory warranties and the insurance.

This means that if a person who enters into a building contract is not the landowner, subsequent purchasers of the land will not get the benefit of the statutory warranties or of the insurance.

In the case before the Court of Appeal, a landowner was involved in a form of joint venture arrangement with another party to develop a strata scheme residential living complex.

The other party not the landowner entered into the contract with the builder.

Subsequently the owners corporation of the strata scheme and the unit holders acquired interests in the land from the landowner.

The court held that, as the original landowner did not enter into the contract with the builder, the owners corporation and the unit holders should not have received the benefits of the statutory warranties and the insurance under the Act.

The owners corporation and the unit owners were not left out of pocket. The costs of rectifying the building defects had already been met by the Building Insurers' Guarantee Corporation.

The issue came to court when the guarantee corporation sought to recover the rectification costs from the builder.

This situation could easily arise again, where a builder enters into a building contract with a party other than the landowner.

There is also a concern that developers might structure their projects to take advantage of the decision.

This was not how the scheme was intended to operate.

Indeed, in another Court of Appeal decision in 2005, the court said the phrase, "a person on whose behalf the work is being done and the person's successors in title":

points to the person for whom the work is done being a person who has title, or an estate or interest in the land on which the work is done.

The uncertainty which the recent decision has created needs to be addressed.

For this reason, the Government is introducing this bill and is seeking to secure its passage urgently.

The ramifications of this decision are significant, as the decision will cause many statutory warranty and insurance claims to be rejected.

The court decision precludes from the scheme any owner or successor in title where the person who contracted with the builder was not the owner of the land.

This will occur because the statutory schemes were based on an assumption that, in any building contract, the person who contracted with the builder would always be the same person who owned the land.

Alternatively, the Act by implication provided that the landowner always was the beneficiary regardless of who entered into the contract.

In addition, given that this assumption might now not be correct, a claimant (including a subsequent purchaser) could be required to produce evidence establishing the direct connection with the contracting party, in order to prove an entitlement.

In a large number of cases, the successor in title particularly owners corporations and lot owners will not be able to obtain the evidence tracing a connection back to the contracting party.

This could be because there was no written building contract created at the time or because the contract is unavailable due to the document being disposed of or the builder or developer going into liquidation.

Further, there is an assumption that the contracts would always be in writing and available many years later to subsequent owners of the land. This is, of course, highly unlikely.

Without the contract, the claimant cannot identify the contracting party and thus cannot trace the necessary ownership connection.

As a result, legal actions commenced or insurance claims lodged will be unsuccessful and the benefits intended to be available to consumers will be lost.

To protect future intended beneficiaries, the proposed amendments to the Act will restore the intended benefits, by providing that a legal action or insurance claim cannot be defeated due to the contracting party not being the owner of the land at the time the contract is entered into.

Specifically, the bill will insert into the Home Building Act amendments to the statutory warranty and insurance provisions to the effect that a landowner who was not a party to the contract will still be covered by the schemes.

The amendments will provide that a person who is a "non-contracting owner" in relation to a contract to do residential building work is entitled to the same rights as a party to the contract has in respect of a statutory warranty or insurance.

The bill defines a non-contracting owner as a person who is the owner of the land but is not a party to the building contract and includes any successor in title to the landowner.

An additional provision will ensure that both a contracting party and a non-contracting owner will not each be able to recover for a particular defect.

A claim by one should preclude a later claim by the other, to avoid a builder or insurer having to pay twice for the loss suffered in relation to the one defect.

The amendments will also recognise the right of insurers to recover from builders in circumstances where a claim was paid notwithstanding that the landowner was not a party to the residential building contract.

The transitional provisions in the bill will ensure that these amendments will be available to benefit home owners regardless of when the residential building work was done under the statutory warranty scheme.

That is, the proposed amendments will apply retroactively, to all building contracts made and insurance policies issued since 1 May 1997 (when the schemes were introduced).

Such an action should not be taken lightly. However, the Government believes it is justified.

Claims have always been paid and insurance premiums calculated on the basis that the scheme was intended to benefit the landowner, regardless of whether or not that was the person who entered into the contract with the builder.

More importantly, subsequent purchasers of land, particularly in strata developments, should not be "caught out" because an unorthodox or unusual contracting arrangement was used by a developer.

Although the scheme changed from a "first resort" insurance scheme to a "last resort" insurance scheme in July 2002, the landowner now will be entitled to the benefits provided by the Act as in force at the time the contract was entered into.

This legislation is urgent.

While an attempt could be made to address the issue in the next session, many decisions will have been made by insurers by then, and possibly some by courts and tribunals.

Insurers, courts and tribunals will essentially be obliged to act on the basis of the Court of Appeal decision as it stands today.

It will be extremely difficult to undo or "reverse" the effects of these decisions in several which it reckons is always in the case a particular months time.

Indeed, the department already expects insurers to deny claims involving circumstances similar to those which arose in the Ace Woollahra case, on the basis of legal advice on how the Act now operates in light of the court decision.

More worryingly, for the same reason it is expected that insurers now will require claimants to obtain and provide a copy of the relevant building contract, to prove that the original landowner was a party to the building contract.

Unfortunately, these approaches are justified, as an insurer will not be able to recover from the builder or developer if a claim is paid where the landowner was not a party to the contract or where the claimant was not able to produce evidence to identify the relevant party to the contract.

Passage of this bill is essential to ensure that the Home Building Act operates as it was always intended to. It will benefit home owners and deliver to them the benefits of the warranties and insurance provided for by the current Act.

Without this bill, many home owners, particularly those in strata developments, could find they have no recourse against a developer or builder.

The Government must act in this situation, to protect the rights of all those persons making probably the largest purchase in their lives and who, through no fault of theirs, find themselves facing substantial loss and inconvenience by the emergence of defective building work.

I commend this bill to the House.

The Hon. CATHERINE CUSACK [5.46 p.m.]: I thank the Parliamentary Secretary for his assistance. The Home Building Amendment (Warranties and Insurance) Bill 2010 seeks to amend the Home Building Act 1989 to extend statutory warranties to owners of land who are subsequent owners of the completed project,

where a builder enters into a contract to perform residential building work with a party who is not the owner of the land. The need for this legislation was identified by the *Ace Woollahra v The Owners—Strata Plan 61424 and Building Insurers' Guarantee Corporation* case in the Court of Appeal. In that case, Ace Woollahra—the builder, formerly known as Reed Construction Services—built 38 strata titled aged person units under a building contract with Wallis Street Developments. Wallis was not the registered proprietor of the land on which the building work took place but it had entered into a joint venture agreement with the registered landowner, PRC Limited. The owners of strata plan 61424 sought to enforce the statutory warranties implied in all building contracts by section 18B of the Home Building Act 1989 against the builder for defective work. I will not go through the details of the warranties they were seeking to effect.

Section 18D of the Home Building Act provides that a person who is the successor in title to a person entitled to the benefit of a statutory warranty is entitled to the same rights as the person's predecessor in title, in respect of the statutory warranty. To put this more simply, if a person who has constructed a building sells the building to another person, the person who purchases the building is entitled to exercise their rights under the statutory warranty. The concept the Government is seeking to extend here is simply that whoever has rights of ownership over the building will have rights to exercise the statutory warranty. In the case I have referred to the completed project was owned by a joint venture, but only one partner to the joint venture had entered into the contracts and been given rights under the statutory warranty. When they sought to enforce their rights under the statutory warranty to the entirety of the joint venture, the Court of Appeal found that those rights were not able to be fully extended.

In his judgement delivered on 17 May 2010, Mr Justice Sackville held that the owner was not entitled to enforce statutory warranties against the builder. Justices Tobias and McColl agreed. His Honour rejected the assumption that the expression "on whose behalf the work is being done" in section 99 of the Home Building Act included persons who were not parties to the building contract. He found that there were "good reasons" for confining it in this context to the case where a residential building work was undertaken by one party on a contractual basis for another party. In this case, the owners corporation was not left to carry the cost of rectification works; these were covered by the Building Insurers' Guarantee Corporation. The bill will not affect the judgement in *Ace Woollahra v The Owners—Strata Plan 61424 & Building Insurers' Guarantee Corporation*. However, as more complicated corporate structures are used to alleviate the chronic housing shortage in New South Wales it is possible that the circumstances created in the Ace Woollahra case will again arise.

The bill will ensure extension of the statutory protections by amending the statutory warranty and insurance provisions of the Home Building Act so that a landowner who was not a party to a residential building contract will still be covered by the statutory warranties. The bill defines a "non-contracting owner" as someone who is an owner of land but is not a party to the residential building contract. The bill prevents both the contracting owner and the non-contracting owner from duplicate claims for a particular defect. The Opposition does not oppose the bill.

Ms SYLVIA HALE [5.50 p.m.]: It will come as no surprise to the House that the Greens consider the home warranty insurance legislation to be junk insurance. It fails to offer the insurance that people engaged in home building assume they will be covered by under the Act. The conditions under which a person can make a claim under the insurance coverage if the contractor or the builder is insolvent, has died or has disappeared, are so narrow as to make it extraordinarily difficult for people. It obliges them to go either through the Consumer, Trader and Tenancy Tribunal or, if that is not satisfactory, to engage in legal proceedings, and often by that time the parties are in no condition to do so. The Greens' view that the home warranty insurance legislation is junk insurance is widely shared.

The Ace Woollahra case has shown that even if those parties that think they may qualify under the very narrow provisions of the Act are not the successors in title then under the laws of contract they are not covered by the provisions of the Act. Essentially it covers a loophole—admittedly an inadvertent loophole that was identified by the court through its interpretation—by amending the Home Building Act to ensure that, where a contractor enters into a contract for residential building work on land with a party or parties who are not the owners of the land, the owner or owners of the land will be deemed to be persons on whose behalf the work is done and will be entitled to the benefit of any statutory warranty. Insofar as it closes that loophole the Greens will support the bill. That is not to say the Greens do not believe the Home Building Act is not extraordinarily flawed.

The Hon. HELEN WESTWOOD [5.53 p.m.]: I welcome this opportunity to lend my support to the Home Building Amendment (Warranties and Insurance) Bill 2010. The Minister for Fair Trading should be

commended for addressing the potentially serious ramifications for so many home owners of the decision of the Court of Appeal on 17 May 2010 in *Ace Woollahra v The Owners—Strata Plan 61424 & Building Insurers' Guarantee Corporation* so quickly. I have no doubt that some members will have had the unfortunate experience of being the purchaser of property where subsequently defects in building work requiring rectification have been identified. I am certain members will understand the urgency in dealing with the situation that has arisen from the recent Court of Appeal decision.

The bill will make clear the entitlements of home owners to statutory warranties and home warranty insurance where loss is suffered due to defective residential building work. The Act provides protection against defective building work for home owners by allowing home owners to enforce statutory warranties against builders or developers through a breach of contract action, and by allowing home owners to claim under insurance for rectification of the work or monetary compensation. These benefits are intended to be available to the landowner and purchasers from the landowner for a period up to a possible maximum of seven years.

In the *Ace Woollahra* case, a landowner was involved with a joint venture partner in developing a strata residential scheme but the joint venture partner and not the landowner entered into the building contract. The Court of Appeal held that only the person who contracted with the builder and that person's successors in title are entitled to enforce the statutory warranties and obtain the benefit of insurance. This means that if a person who enters into a building contract is not the landowner then subsequent purchasers from the landowner are not entitled to the protections of the statutory warranties and insurance. It is of utmost importance that the operation of the Act be restored to the way it was intended to operate to ensure that home owners are able to rely on statutory warranties and insurance benefits regardless of whether a landowner or developer entered into the original contract with the builder. The impact of the decision will be substantial, as the Minister said in her speech, as it will cause many claims to be rejected.

I am also very pleased that the bill will address that part of the Court of Appeal's decision that obliges the claimant, including a subsequent purchaser, to provide evidence to establish the direct connection with the contracting party. Given that a landowner may not be the party who contracted with the builder, the ability of a subsequent purchaser to produce evidence establishing direct connection with the contracting party to establish entitlement may be well nigh impossible. In a large number of cases this will be impossible due to no written building contract having been created at the time, or because the contract is unavailable due to the document having been disposed of, or because the builder or developer has gone into liquidation.

I am pleased that future homeowners will be protected in relation to defective building work and that such claims will not, as the Minister said, be able to be defeated due to the party who contracted with the builder not being the owner of the land. The amendments are necessary to remove uncertainty for home owners, and to ensure that they have the benefits of statutory warranties and insurance held by a builder irrespective of whether the builder's contract was with the landowner or some other party. I commend the bill to the House.

Reverend the Hon. FRED NILE [5.57 p.m.]: On behalf of the Christian Democratic Party I support the Home Building Amendment (Warranties and Insurance) Bill 2010. The bill is the result of *Ace Woollahra Pty Ltd v The Owners—Strata Plan 61424 & Anor* [2010] NSWCA 101, known as the *Ace Woollahra* case. The Court of Appeal held, in effect, that only a contracting party and any successors in title to that person are entitled to enforce the statutory warranties under part 2C of the principal Act and to obtain compensation under home warranty insurance under the principal Act. That undermined the objective of the Home Building Act 1989—the principal Act—and this bill was necessary to rectify that. The bill will overcome the effect of the decision in the *Ace Woollahra* case, though not affecting the actual decision in that case or the rights of the parties involved. This bill will amend the Home Building Act 1989 to ensure that where a contractor enters into a contract for residential building work on land with a party or parties who are not the owners of the land, the owner or owners of the land will be deemed to be persons on whose behalf work is done and will be entitled to the benefit of any statutory warranty. The Christian Democratic Party is pleased to support the bill.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.59 p.m.] in reply: I thank honourable members for their contributions to the debate. The purpose of the Home Building (Warranties and Insurance) Bill 2010 is to restore the operation of the Home Building Act so that it operates as intended. The effect of the Court of Appeal decision is significant and has the potential to deny many homeowners the protections that the Act was always thought to provide. Amendments are necessary to remove uncertainty for homeowners and to ensure that they have the benefits of statutory warranties and insurance held by a builder, irrespective of whether the builder's contract was with the landowner or another party.

To protect home owners in relation to defective building work the proposed amendment to the Act will make it clear that the statutory warranties provided by the Act extend to a non-contracting owner.

A "non-contracting owner" is defined as a person who owns land on which residential building work is done but who is not a party to the building contract, including any successors in title. Insurance policies issued under the Act also will be extended to a non-contracting owner, including any successors in title. Ms Sylvia Hale in her speech used the term "junk insurance". The issue raised about the scope of the current scheme is noted. This issue is outside the scope of the bill. However, Fair Trading released a paper earlier this year on a rewrite of the Act. That issue should be considered as part of the process. Again, I thank all honourable members for their contributions to the debate. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

DUTIES AMENDMENT (NSW HOME BUILDERS BONUS) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [6.02 p.m.], on behalf the Hon. Eric Roozendaal: I move:

That this bill be read a second time.

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

Leave granted.

This budget introduces measures to get more houses built, to improve supply and to make it easier for New South Wales families to realise their dreams of home ownership.

Under the NSW Home Builders Bonus initiative, from 1 July 2010 the Keneally Government will cut stamp duty to zero for purchases of homes worth up to \$600,000 bought off the plan in the pre-construction stage.

Homebuyers can save up to \$22,490—money straight back into the pockets of New South Wales families.

The Home Builders Bonus initiative represents a \$140 million investment in the New South Wales property sector.

Further, for purchases of homes worth up to \$600,000 that are under construction or newly completed, stamp duty will be reduced by 25 per cent. That is a saving of up to \$5,623.

First homebuyers also will benefit from the New South Wales Home Builders Bonus with total benefits of up to \$29,490, giving young families an important head start.

Following consultation with industry, some minor changes are proposed to the Duties Act 1997 to make further provisions in relation to the Home Builders Bonus.

The Duties Amendment (NSW Home Builders Bonus) Bill 2010 introduces minor, technical amendments that will ensure the scheme operates as intended.

Firstly, the bill removes completion date provisions for off-the-plan purchases.

This will allow sufficient time for the necessary developer application and finance approvals. It will remove any timing distortions for projects and allow flexibility in construction schedules.

Secondly, in the case that a vendor has acquired a development from the original builder or developer of the home or building, and not more than 25 per cent of the building work had been completed, and construction has not recommenced at the time of purchase, it will continue to be eligible for the New South Wales Home Builders Bonus.

And, thirdly, in the case of multi-building developments on a common foundation, after the initial tower has been built, the off-the-plan exemption will continue to be available for subsequent buildings.

The Home Builders Bonus will be delivered alongside our historic planning reforms and are part of the Keneally Government's plans to energise the New South Wales housing and construction sector.

I commend the bill to the House.

The Hon. GREG PEARCE [6.02 p.m.]: The people of New South Wales thought they had seen the ultimate level of incompetence from this Government with its handling of the Rozelle metro. With the introduction of this bill the Government has come up with an even more extraordinary example of its incompetence and mismanagement. One day after the passing of the budget, the Government has had to amend it and introduce this legislation.

The Hon. Jennifer Gardiner: That must be a world record.

The Hon. GREG PEARCE: The Treasurer refers incessantly to broken records. He has stopped now. He did not mention the record that was set in Penrith last Saturday. This is a record for incompetence. One day after introducing the budget the Government has to bring in this bill to fix up its own mess. The Government is not just fixing up a budget mess; it is fixing up the centrepiece of the budget. It is fixing up an area where it had the one opportunity to claim a positive outcome, that is, the stamp duties measures relating to the property industry. We all know about the crisis in housing affordability and housing availability in this State, which has been brought about by 15 years of Labor in power. We welcomed the stamp duty measures in the budget. But one day later the Government has had to fix it because it messed it up and got it wrong.

Yesterday I spoke in the budget reply debate about our concerns. Although the Government made one small step in addressing housing demand, which it bungled, it still does not understand the issue. The major issue is that housing supply is a major problem in this State. That is largely because of the Government's appalling failed policies on land release, its planning system, its departmental and agency failure to work together and the infrastructure levies it placed on growth centres which caused land supply to stop dead. The Government must not introduce measures that only address housing demand. The Government must address housing supply—and I do not mean by claiming, as the Minister for Planning fondly does, that there are zoned lots. The industry and the community want to see houses and other dwellings being built. They want the Government to deliver on those measures.

Again, with this bill, this arrogant Government has not consulted. It lacks experience and does not know what it is doing. It brought in one minor measure that was in the right direction, but it did not consult with industry and bungled it and messed it up. Now it has to amend it. In the bill under "Outline of provisions" we see the usual Government-speak where everything is spun beyond belief. In relation to item [2] of schedule 1, the outline states, "Under the amendment, it will no longer be necessary for the off-the-plan purchase". The legislation has not even started. The Government uses this language as spin, yet the legislation has not even started.

Perversely, this legislation may make the position worse. A couple of the provisions may result in developers using these provisions. They could contract for properties and get control of them and then, because they do not have to pay stamp duty, land bank those properties until conditions are better and prices are higher. I hope that is not the case. I hope that the Government has consulted and has now got it right. It is important to get the housing industry going again. The New South Wales Liberals and Nationals do not oppose this legislation, because we want to see improvements in the industry. The Government, through its inexperience and incompetence and its desire to increase taxes at any opportunity, has introduced stamp duty concessions of about \$140 million, but with this change the cost may increase. The Government has not given us any indication as to whether these changes will further impact on the budget. At the same time, or at least a month ago, the Government introduced transfer fee increases—that great, big new tax—which gives the Government \$429 million of revenue, but it has allowed about \$140 million for stamp duty savings. The Government does not have the competence or the commitment to take measures that will assist the housing industry in this State. However, we cannot do much other than support the bill.

Dr JOHN KAYE [6.09 p.m.]: On behalf of the Greens tonight I speak on the Duties Amendment (NSW Home Builders Bonus) Bill 2010. In many senses what I am going to say is the complete opposite of what the Hon. Greg Pearce said. I find very little that I can agree with in his speech. In the first instance I do not believe there is much mileage in beating up the Government over some errors in the legislation that are deeply technical in nature.

The Hon. Greg Pearce: They completely changed the way it operates.

Dr JOHN KAYE: I do not agree: I think that is wrong. The Government has fixed up a number of issues with the legislation. It probably makes good media but I do not think it makes very good public policy to get stuck into a government that has the courage to say, "We did make a mistake. We got it wrong. There are some technical issues. Let us get it out there and get it fixed." I think the worst thing we can do in a public policy sense is create an environment of fear in which people cannot say there is an error and they need to fix it. If we are going to have quality government that sees errors that have been made and fixes them rather than beating it up—the House did pass the legislation yesterday and I did not hear anybody saying anything against it—

The Hon. Greg Pearce: We voted against it.

Dr JOHN KAYE: I do not think that is correct. You voted for it. I do not think this is the bill you sought to oppose. We passed this legislation and I did not see these errors in it and I did not hear the Opposition talk about these errors. The Government found the errors and it is fixing the errors. Let us not create an environment of punishment; let us accept that an error was made and fix up those errors. Not a single dollar has been lost and not a single development has been slowed down. I welcome a public policy environment in which people can say, "We got that detail wrong and we will now fix it up." That is how we should operate, particularly in a House of review. The Hon. Greg Pearce said that the home builders bonus is a good thing. I do not agree with that.

The Hon. Greg Pearce: You voted for it.

Dr JOHN KAYE: You are quite correct: we did vote for it. In the budget take-note speech this afternoon we raised some of our concerns about mechanisms that will perversely drive up house prices. Because prices in the home market are largely driven by consumers' ability to pay, wherever a government subsidises the market by handing money to either developers or potential purchasers all that happens is that developers inflate the price because they know people can pay more. While it makes the developers very happy and improves their bottom line—very healthy bottom lines—it does not bring down prices and it does not create affordability.

As I listened to the contribution of the Hon. Greg Pearce I came dangerously close to agreeing with him on one point. He said that the Government is involved only in demand side measures and is not looking at the supply side. I thought we were headed towards a moment of agreement, but when the Greens talk about the supply side and when the Opposition talks about the supply side I think we are talking about a different range of measures. We believe a better way of using this money would have been to invest it in social, community and public housing to take the pressure off the lower end of the housing market, which will ripple up the market to the higher end and bring down house prices. The Greens believe that is a better way of spending money rather than subsidising developer profits.

The Greens will not oppose this legislation. We appreciate the Government's honesty in coming forward to acknowledge that a mistake had been made and in seeking to fix that immediately. The specific issues involved, first, removing the completion date for dwellings begun under the home builders bonus, with an understanding that removing the specific completion date will not, as the Hon. Greg Pearce said, lead to land banking, because the purchaser will have paid a deposit and the home builder will not receive any income until the contract is completed. The home builders bonus will not kick in until the contract is completed.

The second issue relates to a partially completed development where a developer has gone into liquidation or has gone into receivership and off-the-plan exemptions can be accessed under those conditions, even if the building is partially built. That seems a reasonable situation. If the ideology behind the bill is that this mechanism will encourage the completion of home units, if a new builder takes up a partially completed development, it is appropriate that the home builders bonus carries on to the new developer. The third issue relates to multi-tower developments. Multi-tower developments are built on a common podium. The issue is: At what point does construction actually commence? Rather than its commencing at the point of the construction of the podium, if it is a staged development on a common podium it should be allowed to be, to use the expression in the proposed legislation, at the point where the first level of residential construction occurs. That seems to us to be a sensible way of allowing staged tower developments to go ahead, if one believes that staged tower developments make up sensible urban design—and there are many of us who do not think they do, but that is another issue. These are relatively technical fix-ups and I cannot see how they change the intent of the legislation. In some senses I wish they would, but they have not. Therefore, the Greens will not oppose this legislation.

Reverend the Hon. FRED NILE [6.16 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Duties Amendment (NSW Home Builders Bonus) Bill 2010. The bill will amend the State Revenue Legislation Amendment Act 2010. It is a very important additional piece of legislation that will help stimulate the provision of housing in this State, particularly home units. I understand that we need at least 30,000 dwellings a year to meet the needs of our growing population but that, according to reports, we build only about 13,000. This legislation will stimulate and enable developments to expand, particularly across the Sydney metropolitan area.

The legislation removes the specific completion dates for dwellings begun under the home builders bonus. This will allow sufficient time for builders to obtain development approval and organise finance. We all know that because of the economic downturn—which, thankfully, in Australia has not been as serious as in other countries—it has been difficult to organise finance. That is why some developers postponed their building programs. We want to see those programs stimulated and going ahead. Hopefully, this amending bill will improve the flexibility of the programs to maximise the economic benefits.

The legislation also makes provision for receivership and liquidation provisions. We know that sometimes developers overstretch themselves—we see that when sites are cleared and nothing happens for some time. Sometimes the original builder has trouble raising finance and goes into receivership. In that case, a builder taking over a partially completed development as a result of a developer not being able to complete will be able to access the off-the-plan exemption even if the building is partially built under certain conditions. No stamp duty will be paid if the building is up to 25 per cent complete. That allows the economic benefit of the project to be realised.

In regard to multi-tower developments, there have been reports of some large tower developments, such as 20 towers of 20 storeys planned for the North Shore area. Some apartment developments consist of multiple towers that may share common foundations. The program will be amended to allow for the zero stamp duty off-the-plan exemption to be extended to staged multi-tower developments. The rationale is that people buying in the towers built later should not be disadvantaged because the foundation of the whole project had to be laid. I am pleased to support this practical bill.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [6.21 p.m.], in reply: The housing initiatives announced in this bill are designed to have more houses built, to improve supply and to assist more New South Wales families to realise their dream of owning their own home. Project financing can be a hurdle to new home construction and by helping people to buy off the plan and to buy early we are giving builders a better chance to secure finance. As has been stated in a number of contributions to this debate, the Duties Amendment (NSW Home Builders Bonus) Bill 2010 contains technical amendments that will ensure the scheme operates as intended. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [6.21 p.m.]: I move:

That this House do now adjourn.

KNIGHTS AND DAMES OF MALTA INVESTITURE

The Hon. MARIE FICARRA [6.21 p.m.]: It gives me great pleasure to advise of the extraordinary work of the Knights Hospitallers of the Sovereign Order of St John of Jerusalem Grand Priory of Australia, the Ecumenical Order and Knights of Malta, which have donated more than \$60 million to many third world countries, particularly medications and medical equipment. Last Sunday I had the privilege of attending an investiture at St Ambrose Church, Concord followed by a dinner at Curzon Hall, Marsfield organised by the dedicated community leader of the organisation, the Grand Prior of Australia, Pasquale "Pat" Pedula.

The Prince Grand Master International, Baron Nicholas Papanicolaou, invested new Knights and Dames for their outstanding service to the community. They included: Carmela Di Pietro, Filippa Indovino, Maureen Patricia Pancia, Danielle Riccio, Caterina Severino, Giuseppe Commisso, Enzo Melani, Filippo Navarra, Gianfranco Placanica, Salvatore Restifa, Philip Sheldon from the United States, Dr Samiul Sorrenti, and John Mario Stillone. I also acknowledge the extraordinary work of Nat Zanardo, Caterina Pedula, Maxine Zammit, Leonard Pearman, Peter Georgopolous and Wendy McGirr and I thank Chevalier Carl James Melvey, the master of ceremonies on this wonderful evening.

The gathering heard from the very talented Illawarra and South West Regional Choir and wonderful shire home-grown performer, Sydney Esquire Mark Vincent, whose grandfather—or nonno—the late and great Bruno Riccio, OAM, undertook years of fundraising work for hospitals and other good causes. Dr Arthur Teng, representing the Sydney Children's Hospital, Randwick, thanked the knights for their donation of a variable positive airway pressure machine designed to help infants and children with severe breathing disorders in sleep and respiratory failure. I also extend thanks for the generosity of the women who conducted a fundraising function in aid of the work of Professor David Morris, the renowned liver cancer researcher. They are: Ornella Tomaino; Teresa Marrone; Mariarosa Bonnano, Anna Maria Cirene; Anna Panzarino; Annette Scaturchio; and Tina Zanco. All these fine selfless people make a significantly positive difference in our community and I praise them.

ASSYRIAN GENOCIDE MONUMENT

Reverend the Hon. FRED NILE [6.25 p.m.]: I am very pleased to announce that the third phase of the Assyrian Universal Alliance's plans to erect a memorial at Fairfield honouring the memory of the victims of the genocide committed by the Ottoman government during the First World War. The construction of the monument commenced on 23 May 2010 and the unveiling will be on Assyrian Martyrs Day, 7 August 2010. The foundation work was completed on Saturday 12 June and the 1.20 metre high base was completed on Tuesday 15 June.

The Assyrian Universal Alliance was able to commence preparations for and construction of the monument as soon as the official agreement was signed between the alliance and the City of Fairfield. On 15 December 2009 the Fairfield council voted unanimously to approve the memorial on the basis that all expenses would be met by the Assyrian community—there would be no call for council funding. The alliance has arranged a two-day program for the dedication of the monument and to commemorate the Assyrian genocide and martyrs day. The unveiling will commence at 10.00 a.m. in Bonnyrigg Park followed by a seminar on the Assyrian genocide and the screening of a documentary at the Assyrian social centre illustrating the horror of the genocide. The film will show the vicious, systematic butchering of 750,000 Assyrians, Armenians and Greeks carried out by the Ottoman Turks. All concerned individuals are welcome to attend that important ceremony. The Assyrian community will be very pleased to have non-Assyrians at the event.

The Turkish authorities have raised some objections about the erection of the monument, but it carries only peaceful messages. Its purpose is to honour and commemorate the victims of genocide by asking the world to stop all genocide of mankind. That is the same mankind that has lost its meaning in the Middle East because of dictatorial regimes and fanaticism. The monument does not carry the names of the perpetrators, because that would only cause animosity and hatred. That is not the message of the memorial. It is a very simple structure with an Assyrian flag in the hand of a martyr holding the earth up high and at the base there will be children—the new generation that is asking the world to stop the killings. Four Assyrian human-headed winged lions have been included to repel evil and to protect the stature's nobility.

The monument does commemorate the Assyrian genocide but it is about peace. In no way is it intended to antagonise anyone, particularly the people of today's Turkey, who were not directly involved in the genocide.

It was carried out by the Ottoman Empire and was condemned by the Turkish democratic government led by the Turkish hero Atatürk. I am pleased to bring this event to the attention of the Parliament and to invite all members to attend the celebration on 7 August 2010 at Bonnyrigg Park.

AVALON TATTOO

The Hon. KAYEE GRIFFIN [6.29 p.m.]: Last Saturday I had the pleasure of representing the Premier at the Avalon Tattoo, a community event in which I was proud to participate. The 2010 Avalon Tattoo saw many of our services on display at an event that has grown from its inception four years ago. The tattoo honours the proud military traditions of Edinburgh and is complemented by the New South Wales Police Force, the New South Wales Fire Brigades, the Rural Fire Service, St John Ambulance and Marine Rescue NSW.

Initially promoting local cadets and Australian Defence Force reserves, the Avalon Tattoo has now become a celebration of all the men and women who carry out essential service work in our community. Numerous displays, demonstrations, and bands showcased the talents of the men and women who are members of our services, and community organisations entertained all who attended throughout the day. There were a variety of displays from the Navy Clearance Diving Team, Armoured Vehicles Adventures, the Australian Light Horse Association, NSW Police, New South Wales Fire Brigades and the Rural Fire Service as well as a number of cadet units representing the Army, Navy and Air Force.

A major attraction of the day was the arrival and take off at 2:00 p.m. of a vintage Iroquois navy helicopter. This was a spectacle enjoyed by one and all, particularly some of the younger children present who were delighted to see a helicopter take off from such a close vantage point. Most of the adults enjoyed that as well. One of the things that made this occasion so special was the emphasis on youth involvement. Many young people participated enthusiastically throughout the day. The young cadets from far and wide presented with pride and professionalism and they were a credit to their respective organisations. The dedication of younger generations to active involvement and participation in community service organisations is vital for these services to remain effective in the future.

Indeed, I was pleased to see the members of the Riverwood Air League Squadron Band marching and performing. As patron of Riverwood Air League Squadron I took great pride in seeing these young men representing the squadron in such an impressive way. They should be very proud of their performance at the Avalon Tattoo and I acknowledge their effort in preparing for the Tattoo. I expect they have spent many hours practicing and training and their hard work certainly paid off on Saturday. Many comments were made about their professionalism.

At the request of Avalon RSL, which coordinated the event, the council granted freedom of entry to around 400 combined Army, Air Force and Navy cadets, in a special ceremony as part of the day's celebrations. The presentation of the freedom of entry is a unique and historic ceremony, conferring the right, title, privilege, honour and distinction of marching through the streets of a city on ceremonial occasions with bayonets fixed, drums beating, bands playing and colours flying. Historically, the ritual originates from medieval Britain, during the struggle for power between British barons and influential city and borough corporations. It was custom for armed groups of men seeking entry to a city to be challenged at the gates by the city marshal. After indicating their peaceful intent, they were permitted to enter only with arms sheathed, drums silent and colours cased.

In more contemporary times, this ritual has been progressively altered so that local authorities or corporations wanting to honour a group of armed forces could grant freedom of entry with arms drawn, colours flying and drums beating, symbolising mutual trust and respect between the city and the unit of armed forces. Exercising the right of freedom of entry of the city is a great way to honour our armed forces and our cadets, and strengthen ties between citizens and servicemen and women.

The day's festivities were brought to a close with the Ceremonial Sunset, one of the oldest and important naval ceremonies, which is used to conclude days of special importance. The Ceremonial Sunset is traditionally maintained by navies across the world to salute the lowering of the ensign at the close of the day. During the Ceremonial Sunset, it was also the custom for the captains of men of war to ensure that their gunpowder was dry for the next encounter. This is done by the firing of an evening gun, as well as a fusillade of rifles by the ship's marine detachment. It was a fitting end to the day, after such wonderful involvement with the local community and the many groups who participated.

I acknowledge the tireless work of all who contributed to the organisation of the 2010 Avalon Tattoo including Avalon Beach RSL Sub-branch members, Australian Defence Force members and dignitaries,

tri-service cadets, band members, volunteers and Pittwater Council. I also acknowledge the hard work of Mr Mark Bradbury, the Tattoo coordinator, and Commodore Graham Sloper, President of the Avalon Beach RSL Sub-branch, in making this event possible. I acknowledge the success of the event and congratulate all who participated.

CONCORD FORESHORE TRAIL

The Hon. DON HARWIN [6.33 p.m.]: I have previously brought to the attention of the House the decision by the Department of Health to close public access to the walking route along the southern bank of the Parramatta River between Brays Bay and Yaralla Bay, around the Rivendell Adolescent Mental Health Unit and Concord Hospital. I am outraged to hear that the Government's infamous spin machine is now trying to peddle the line that access is not technically closed. In response to a resolution asking for public access to be reinstated, Mike Wallace, Chief Executive of Sydney South West Area Health, recently wrote to the Parramatta River Catchment Group, an association of 11 local councils and numerous agencies and community groups. Mr Wallace's letter refers to the new pathway through the hospital as "a defined and formal path" co-existing with "the informal foreshore linkage".

Mr Wallace asserts that access to the foreshore route is not closed and remains "available" to the community but that the department "does not wish to further promote such access". This is simply another case of cynical spin from an official of this Labor State Government. I am not sure what informality he is referring to. There is a bronze plaque in Majors Bay Reserve which states:

This trail has been made possible by access agreements between Dame Eadith Walker Convalescent Hospital, Concord Repatriation General Hospital, Thomas Walker Convalescent Hospital and Concord Municipal Council.

It goes on to say that the trail is

... for the use of residents and ratepayers of Concord, as well as the populace at large.

The plaque was unveiled on 20 April 1985 by none other than the Hon. R. J. Carr, MP, Minister for Planning and Environment. The suggestion that access has not been closed is absurd. The general manager of Concord Hospital has told the group Walking Volunteers that there is no foreshore access for the public around the Rivendell Adolescent Mental Health Unit and Concord Hospital and that people using the walking path must follow the directed route through the hospital grounds. He knows that foreshore access is closed. His view of the situation has been confirmed to the Walking Volunteers by both the property manager for the Sydney South West Area Health Service and the regional director of planning within the Department of Planning. They both know that foreshore access has been closed.

I have seen the site for myself and I am astonished that anyone could possibly suggest that foreshore access has not been closed. First, signage has been erected directing walkers away from the foreshore and along the new path across the hospital grounds. Second, parts of the new Rivendell Adolescent Mental Health Unit facility have been built on top of the foreshore path. Third, a car park for Concord Hospital has also been built on top of the foreshore path. Fourth, the Walking Volunteers have been told that the foreshore path around Concord Hospital must not be shown on their proposed series of maps detailing public walking routes across Sydney. As far as I am concerned it is quite clear that access has been closed and I do not accept the Government's pathetic spin about "official" and "informal" walking paths and the foreshore being "technically" not closed.

Directing people away from it, refusing to publicise it and building on top of it means, effectively, that it is closed. I intend to keep referring to it as closed whenever I have something to say about it. It is completely unacceptable that the Government has closed this part of the historic foreshore walk after 25 years. It is completely unacceptable that Angelo Sorekas, the mayor of Canada Bay, is reinforcing this sort of spin. It is completely unacceptable that the Labor member for Drummoyne has done absolutely nothing to try to retain public access to this part of the foreshore for her constituents. The Keneally Labor Government is not interested in working with the local community to find a workable solution that retains access and safeguards patients' interests. Despite its constant bleating about consultation and listening to the electorate, Labor just wants to try to make this issue go away with yet more pathetic spin. It is a complete disgrace.

KARELLE LIFE ENRICHMENT SERVICE

Reverend the Hon. Dr GORDON MOYES [6.38 p.m.]: On behalf of Family First, I speak tonight of an excellent community organisation called Karelle Life Enrichment Service. Located in Mount Druitt, it was

founded in 2003 for the purpose of developing the potential in people with an intellectual disability and helping families in crisis. The core business of Karelle is to provide a range of services that will make a difference by focusing on all elements that encompass every person's life. For instance, because people with an intellectual disability are less likely to complete year 12 studies or to participate in the labour force, they are more likely to rely on a government pension or allowance for income throughout their lives.

It is also a tragic fact that a disproportionately high number of people in our prisons are people with an intellectual disability—who were once cared for in institutions whose doors were closed after the Richmond report. It is about time that we faced the reality that the idealised alternative of living in the community has not worked out as well as all the well-meaning experts envisioned.

Karelle sees its role as stepping in to develop the potential in each individual to the fullest, so that they have more options throughout their lives. Karelle does this by affirming ability and it is deeply committed to valuing all people equally. Karelle seeks to work creatively, innovatively, and cooperatively in all it undertakes and is committed to positive partnerships with Federal, State and local governments, with its clients, families and local community. Karelle's dedicated and enthusiastic staff provide a high level of specialised service to children and young people with an intellectual disability, by providing ongoing care, giving them opportunities to develop and use their skills and abilities, and by doing so enhancing their lives. Karelle receives no funding from the Commonwealth, but does receive a grant from the New South Wales Department of Health for one of its many projects. Otherwise all of its funding comes from the local community and from many local fundraising efforts conducted by its enthusiastic supporters.

One of Karelle's outstanding programs fills a real need in the community by providing support to carers of people with a chronic or mental illness, or a disability. Its Carer Support Program is designed to support carers who provide essential daily care to their charges. Interestingly, most of the carers enrolled are from a culturally and linguistically diverse background, and this has added to the barriers that they have had in meeting the challenges facing them as advocates for their young people. Also, the people they are caring for come from diverse backgrounds and have different diagnoses including autism, intellectual disability and mental illness. The group meets on a daily basis to discuss the stresses they face and methods of coping. Such sharing of personal experiences is very helpful, and they learn from each other.

I know from my days as superintendent at Wesley Mission that the right support can make a big difference in the lives of individuals with disability. At Wesley Industries people with disabilities were able to learn how to do productive work in contract cleaning services, horticulture and assembling millions of McDonald's packs. I have seen many people overcome their weaknesses and problems to become true achievers. It is quite inspiring. I recognise in Karelle Life Enrichment Service the same belief I had in people's potential. The service sees the possibilities that can be reached with a little bit of self-confidence and building upon a series of small, continuous successes. Another one of its excellent initiatives is the Transition to Work Program, which offers what is called a wraparound service delivery model. Such an approach ensures that support and training are provided in an individualised way that provides each person with a positive set of outcomes.

The customised planning process identifies the strengths of young people and registers their particular vocational needs across multiple settings including home, the training service environment and the community. With this approach, the wraparound process builds on the life experiences of a person with a disability to enhance the possibilities of success. It uses a holistic perspective in understanding every individual's needs, and is very flexible. There is no pressure to succeed on any other terms but one's own, and that is very important. It creates the space for growth, but that growth can be achieved on each person's own timetable. I congratulate Karelle Life Enrichment Service on providing a range of very important services to the community.

FASCISM

The Hon. IAN WEST [6.43 p.m.]: Sydney town in the 1930s Depression landscape was physically and psychologically an island unto itself—a place forced to come to terms with a rapidly ever-evolving world that little resembled Australia's Sydney town. Sydney was a hot bed of political, industrial and economic fault lines. The bush was becoming the city, industry was developing, and manufacturing, stevedoring and production-based heavy industries generated great returns from capital. Thousands upon thousands of people were on the wallaby in search of opportunities, and between 1929 in 1931 Australia's gross domestic product was cut by 10 per cent and our unemployment rate reached a peak of 29 per cent—some figures even estimate as much as 32 per cent.

In 1929 in the Hunter Valley at Rothbury a teenage unionist was shot dead on a picket line. The public mood was changing and dark clouds were gathering. In 1931 the people of New South Wales elected Labor Premier Jack Lang in a landslide victory. In May 1932 the Governor sacked Jack Lang as Premier for refusing to adhere to the Melbourne agreement—an agreement that was to destroy economic growth and debilitate our chances to effectively combat the global economic downturn. As they did again in 1975, the reactionary puppets of capital overthrew the democratically elected leader of the government. Political and economic savagery was erupting all over the world. Fascism was spreading around the globe and war was brewing. Japan was to begin its expansion through Asia, invading Manchuria in 1931. Fascist organisations sprung up across the globe.

Here in New South Wales the New Guard was a fascist group largely comprising right-wing monarchists, ex-service men and Empire loyalists opposed to a free and democratic society, especially one that was governed by labour—a Labor Government improving the health, welfare, life opportunities and choices of workers and the disadvantaged through implementation of fair and responsible social and economic policies and appropriate legislation. One of the founders of the New Guard was a solicitor named Eric Campbell, who in 1933 toured Europe to liaise with other fascist groups. Campbell met with the British Union of Fascists and was inspired by what he learned overseas. The British Union of Fascists journal *Black Shirt* reported that the meetings between leading British Fascists and the Australian New Guard Eric Campbell were a great step forward for international fascism.

Born in Young New South Wales of patrician stock, Eric Campbell had weaved his way up the social ladder to become a successful solicitor and company director, and was highly involved and respected in several of Sydney's gentlemen's clubs. He was typical of the elite leadership of the Sydney fascist scene. A new book entitled *Radical Sydney*, written by Terry Irving and Rowan Cahill, provides insight into the shady movement. The Japan Australian Friendship Society formed in 1929 was an invitation-only group comprising academics, conservative politicians, and owners of pastoral, stevedoring, banking and insurance companies. Australian capitalists were under no illusions. They had much to gain from expanding fascist dominion. The conservative governments of the time largely turned a blind eye to Japanese militarism and imperialism—first when Japan invaded Manchuria, and even with the invasion of China in 1937 the attitude did not change.

This policy of implicit appeasement and favour for commercial allies was embodied in the 1938 Wollongong dockworkers dispute. When dockworkers refused to ship iron ore to Japan while Japan was waging war against the innocent Chinese, Deputy Prime Minister Menzies stepped in under the guise of defending Australia's trading interest. His support for these commercial interests caused him to be famously and forever labelled "Pig Iron Bob". In 1955 during the Petrov royal commission a document that revealed pre-war connections between prominent Australian conservative business and political figures was discovered. These men would have emerged to collaborate with the Japanese had they invaded Australia and formed a new government.

The development of Australian society follows the common fabric of human development and the constant struggles for social justice: the colonisation of a native land by a foreign invader, in the form of our convict past as a penal colony; slavery from blackbirding of Kanakas in Queensland; wage slavery, in the form of our lowest paid, hardest working and most undervalued workers; and the hegemony of the oppressor over the oppressed. Sydney town's brush with fascism should be a constant reminder of the fragility of the limited gains we have made. Things we take for granted such as free speech, freedom of association, collective bargaining and the right to vote—all signifiers of an advanced society—can be taken away in a breath. [*Time expired.*]

POLICE RESOURCES

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [6.48 p.m.]: Without any doubt this year's State budget was very disappointing for many front-line police. The State budget measures announced amount to just 2 per cent of the total police operating budget, which is an insignificant amount. At the time of the budget announcement the Government made much about the so-called new Polair helicopter. In fact, it was not a new announcement at all. Much of the existing fleet faces being grounded under new Civil Aviation Safety Authority regulations. As we revealed last year, the current twin-engined Kawasaki helicopter has been plagued with problems, including the fact that it poses occupational health and safety risks to counterterrorism officers.

I am gravely concerned about the rollout of the mobile police commands, as announced in the budget. Whilst there is no doubt that they can enhance community policing for specific targeted operations, this State Government is showing a willingness to offer them to communities as some replacement for police stations it intends to close. We have seen this happen in Maitland and we will see it rolled out around the State, as if

somehow mobile police commands are an alternative to police stations. Indeed, the Government is trying to suggest that they are in addition to police stations, when we know that the Government proposes to close police stations.

Whilst the \$12.4 million funding allocation for forensic resources is welcome, it is a drop in the ocean compared with the existing strain on forensic examinations that causes lengthy backlogs for analysis and in some cases samples having to be sent interstate for testing. The most important and expensive resources for the New South Wales Police Force are its human resources. The State Government has offered nothing in the way of additional police officers, nor has it offered any indication that it will be able to live up to the commitment it gave during the last election to provide 750 additional police officers.

A number of courses conducted by the Police Academy have collapsed. Important courses such as those for detectives and the like are to be replaced by a new course the Government wishes to trot out just prior to the election, to provide it with an opportunity for pretty pictures of hats being thrown into the air on the parade ground, with the Premier taking the salute. But the fact is, it really is robbing Peter to pay Paul, to say the least, in terms of the resources that our Police Force so desperately needs.

Recently, in this House and in the other place, we heard further examples of police resources being taken away from a much-needed area of policing so that other areas within the Police Force can be supported. Today this aspect was again identified in relation to the highway patrol in Coffs Harbour, on the mid-North Coast, an area where the road toll has increased to a figure that is much higher than it was at this time last year. Police officers in the much-needed highway patrol have been removed from their duties so that they can perform such roles as checking firearms licences. The Government somehow suggests that this is acceptable. Whilst Deputy Commissioner Dave Owens has issued memorandum after memorandum saying this will not happen, of course that is not the Government's view. The Government simply wants highway police doing jobs that it is not prepared to pay additional police to do. It really is a disgrace the way police are being treated, not only on the North Coast but indeed right around the State. For the Government to suggest that somehow this budget is good for policing is a joke.

[Time for debate expired.]

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

Motion agreed to.

The House adjourned at 6.51 p.m. until Thursday 24 June 2010 at 11.00 a.m.
