

# LEGISLATIVE COUNCIL

Wednesday 1 September 2010

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

**The President** read the Prayers.

## CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (CHILDREN'S SERVICES) BILL 2010

## LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) BILL 2010

## ELECTRONIC TRANSACTIONS AMENDMENT BILL 2010

## PRIVACY AND GOVERNMENT INFORMATION LEGISLATION AMENDMENT BILL 2010

## PLANT DISEASES AMENDMENT BILL 2010

## TERRORISM (POLICE POWERS) 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. Tony Kelly 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.**

## POLICE INTEGRITY COMMISSION

### Report

**The President** tabled, pursuant to the Police Integrity Commission Act 1996, the annual report of the Inspector of the Police Integrity Commission for the year ended 30 June 2010, received and authorised to be made public this day.

**Ordered to be printed on motion by the Hon. Tony Kelly.**

## BUDGET ESTIMATES 2009-2010 PORTFOLIOS AND HEARING DATES

**Motion by the Hon. Tony Kelly, on behalf of the Hon. John Hatzistergos, agreed to:**

That the resolution referring the Budget Estimates and related papers to the General Purpose Standing Committees for inquiry and report, adopted by this House on 24 November 2009, amended 2 December 2009, be further amended by omitting paragraph 3 and inserting instead:

3. That the initial hearings be scheduled as follows:

### Day One: Monday 13 September 2010

GPSC1 Tourism, Hunter, Science and Medical Research, Women .....	9.15 a.m. – 1.00 p.m.
GPSC2 Health .....	9.15 a.m. – 1.00 p.m.
GPSC2 Ageing, Disability Services, Volunteering, Youth .....	2.00 p.m. – 6.00 p.m.
GPSC1 Ports and Waterways, Illawarra, Mineral and Forest Resources .....	2.00 p.m. – 6.00 p.m.

**Day Two: Tuesday 14 September 2010**

GPSC1 Treasury, Special Minister of State, State and Regional Development .....	9.15 a.m. – 1.00 p.m.
GPSC3 Local Government, Juvenile Justice, Mental Health .....	9.15 a.m. – 1.00 p.m.
GPSC1 Premier, Redfern Waterloo .....	2.00 p.m. – 6.00 p.m.
GPSC3 Attorney General, Regulatory Reform, Citizenship .....	2.00 p.m. – 4.30 p.m.
GPSC3 The Legislature .....	4.45 p.m. – 6.00 p.m.

**Day Three: Wednesday 15 September 2010**

GPSC2 Education and Training .....	9.15 a.m. – 1.00 p.m.
GPSC4 Fair Trading, Arts .....	9.15 a.m. – 11.00 am
GPSC4 Housing, Small Business, Veteran's Affairs .....	11.15 a.m. – 1.00 p.m.
GPSC2 Community Services, State Plan .....	2.00 p.m. – 6.00 p.m.
GPSC4 Planning, Infrastructure, Lands .....	2.00 p.m. – 6.00 p.m.

**Day Four: Thursday 16 September 2010**

GPSC4 Transport, Central Coast .....	9.15 a.m. – 1.00 p.m.
GPSC5 Industrial Relations, Commerce, Energy, Public Sector Reform, Aboriginal Affairs .....	9.15 a.m. – 1.00 p.m.
GPSC4 Roads, Western Sydney .....	2.00 p.m. – 6.00 p.m.
GPSC5 Water, Corrective Services .....	2.00 p.m. – 6.00 p.m.

**Day Five: Friday 17 September 2010**

GPSC3 Police, Finance .....	9.15 a.m. – 1.00 p.m.
GPSC5 Climate Change and Environment, Cancer .....	9.15 a.m. – 1.00 p.m.
GPSC3 Gaming and Racing, Sport and Recreation, Major Events .....	2.00 p.m. – 6.00 p.m.
GPSC5 Primary Industries, Emergency Services, Rural Affairs .....	2.00 p.m. – 6.00 p.m.

**GENERAL PURPOSE STANDING COMMITTEES****Portfolio Responsibilities****Motion by the Hon. Tony Kelly, on behalf of the Hon. John Hatzistergos, agreed to:**

That the resolution appointing five general purpose standing committees reflecting Government Ministers' portfolio responsibilities adopted by this House on 10 May 2007, and as amended, be further amended to reflect the changes to Government Ministers' portfolio responsibilities as follows:

**(a) General Purpose Standing Committee No. 1**

Premier  
Redfern Waterloo  
Tourism  
Hunter  
Science and Medical Research  
Women  
Ports and Waterways  
Illawarra  
Mineral and Forest Resources  
Treasury  
Special Minister of State  
State and Regional Development

**(b) General Purpose Standing Committee No. 2**

Health  
Ageing  
Disability Services  
Volunteering  
Youth  
Education and Training  
Community Services  
State Plan

**(c) General Purpose Standing Committee No. 3**

Attorney General  
Regulatory Reform  
Citizenship  
Local Government  
Juvenile Justice  
Mental Health  
The Legislature  
Police  
Finance  
Gaming and Racing  
Sport and Recreation  
Major Events

- (d) **General Purpose Standing Committee No. 4**  
 Fair Trading  
 Arts  
 Housing  
 Small Business  
 Veterans' Affairs  
 Planning  
 Infrastructure  
 Lands  
 Transport  
 Central Coast  
 Roads  
 Western Sydney
- (e) **General Purpose Standing Committee No. 5**  
 Industrial Relations  
 Commerce  
 Energy  
 Public Sector Reform  
 Aboriginal Affairs  
 Water  
 Corrective Services  
 Climate Change and the Environment  
 Cancer  
 Primary Industries  
 Emergency Services  
 Rural Affairs

#### **TABLED PAPERS NOT ORDERED TO BE PRINTED**

**The Hon. John Robertson** tabled, pursuant to Standing Order 59, a list of all papers tabled and not ordered to be printed since 1 August 2010.

#### **AUDITOR-GENERAL'S REPORT**

**The Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Knowing the Collections: Australian Museum", dated August 2010, received and authorised to be printed this day.

#### **PETITIONS**

##### **Adoption Laws**

Petitions requesting that the Parliament reject any proposed legislation or amendments to adoption laws that would take away the fundamental human right of adopted children to be raised by both a mother and a father, received from **Reverend the Hon. Fred Nile** and **Reverend the Hon. Dr Gordon Moyes**.

##### **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 the **Hon. Trevor Khan**.

##### **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 **Hon. Kayee Griffin**, **Reverend the Hon. Fred Nile** and **Reverend the Hon. Dr Gordon Moyes**.

#### **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 a motion to be moved forthwith relating to the conduct of the business of the House this day.

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

That General Business take precedence of Government Business this day.

**ROAD TRANSPORT (GENERAL) ACT 2005: DISALLOWANCE OF ROAD TRANSPORT (GENERAL) AMENDMENT (HEAVY VEHICLE DRIVER FATIGUE AND SPEEDING COMPLIANCE) REGULATION 2008**

**The PRESIDENT:** Pursuant to standing orders the question is: That Business of the House Notice of Motion No. 1 proceed as business of the House.

**Question resolved in the affirmative.****Motion by the Hon. Duncan Gay agreed to:**

That the matter proceed on Tuesday 9 November 2010.

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Order of Business****Ms SYLVIA HALE** [11.14 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. 269 outside the Order of Precedence, relating to an order for papers regarding Barangaroo, be called on forthwith.

This is an extremely urgent issue. Members will know that Lend Lease has applied for permission to construct a basement car park at the Barangaroo site. That construction will require very deep excavation of the site. The Barangaroo site is also contaminated by pollution seeping from the old AGL gasworks site, part of which covers Barangaroo and part of which runs under Hickson Road and underneath buildings located at 32-38 Hickson Road. The pollution is such that when residents of the Bond building, one of the buildings on Hickson Road, moved in they complained of odours. Some years ago the Department of Environment, Climate Change and Water considered the site presented a significant risk of harm to residents. The pollution continues.

**The Hon. John Hatzistergos:** Point of order: The member should be directed to address the issue of urgency and not engage in general debate.

**The PRESIDENT:** Order! Ms Sylvia Hale should be addressing the matter of urgency only.

**Ms SYLVIA HALE:** This matter is urgent because public submissions relating to the application to proceed with construction close on 10 September. Clearly, if this motion is passed the documents may not be available before that time. However, if the motion is passed it will give the public the opportunity to assess whether the decision made by the Department of Planning in relation to this matter is appropriate in light of the information that I believe will be revealed when the documents called for in my motion are released. They include documents such as the report on the human health and ecological risk assessment and documents relating to Lend Lease's voluntary management proposal.

**The Hon. Greg Donnelly:** Point of order: Ms Sylvia Hale knows how this debate should proceed. She is simply reading through her notice of motion. She started with paragraph (a) and is moving on to (b) and presumably to (c). She should be advancing arguments about why this matter should take precedence over other business of this House, not simply reading her notice of motion.

**The PRESIDENT:** Order! I remind the member that she should address the matter of urgency only.

**Ms SYLVIA HALE:** The documents are essential to any understanding of the potential impacts of the excavation of the car park, and those documents, which are listed in the motion, include the human health and ecological risk assessment. It is urgent that those documents be made available.

**The Hon. Greg Donnelly:** Point of order: The member is reading paragraph (a) of the notice of motion, which she has already spoken to.

**The PRESIDENT:** Order! The member with the call may refer to specific items in her motion in order to justify the argument for urgency.

**Ms SYLVIA HALE:** Indeed, a number of documents are referred to in the motion. I believe that for a proper assessment of the dangers posed by any decision by the Department of Planning to permit excavation it is absolutely urgent that those documents be made available to the public at the earliest opportunity.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.18 a.m.]: I had hoped that over the break members would have reflected on what urgency means, but I see that nothing has changed. There are a lot of items on the *Notice Paper*, some of which have been waiting for quite a long time to be debated. They need to be debated because it is rare that so much time is allocated to private members' business. The Government opposes the motion to have this matter dealt with as a matter of urgency. We believe that the motion is unnecessary, but I am sure that we will get into a debate because the Opposition has done a deal with the Greens, yet again, to make sure that this call for papers succeeds. While it is disappointing that nothing changes, it is even more disappointing for many members whose private member's items have been listed for debate for many months to be continually bumped out of line by ridiculous motions such as this.

**The Hon. DON HARWIN** [11.19 a.m.]: The Opposition will support the call for papers. I have had discussions with both the shadow Minister for the Environment, our colleague the Hon. Catherine Cusack, and the shadow Minister for Planning, the member for Wakehurst in the other place, who have indicated concern relative to the processes that are being followed at Barangaroo, in particular in relation to some aspects of the way in which the Department of Environment, Climate Change and Water has been handling the site. If a substantive, fulsome debate takes place, it will provide an opportunity to have some of those matters stated on the record. In response to what has been said by the Hon. Penny Sharpe, I make the point that the reform of private members' day and the handling of private members' business certainly is urgent. Currently it is an absolute joke.

**The Hon. Greg Donnelly:** Point of order: The Hon. Don Harwin is given the opportunity to speak for the purpose of advancing his case, not giving us a lecture on how he thinks Government business should be conducted in this House.

**The Hon. DON HARWIN:** To the point of order: I simply make two points: firstly, I was replying to a point made during debate by a previous speaker, which is in order; and, secondly, it has nothing to do with Government business, contrary to what has been stated by the Government Whip.

**The PRESIDENT:** Order! There is no point of order.

**The Hon. DON HARWIN:** I had concluded the point, which is self-evident. We have to deal with this matter. The fact that points of order have been taken, that the Hon. Penny Sharpe responded in the manner she did and that the Greens have to invent ways to make matters sound as though they are urgent clearly indicates why private members' business requires reform.

**The Hon. ROBERT BROWN** [11.22 a.m.]: On behalf of the Shooters and Fishers Party, I indicate that we will support the call for papers made by Ms Sylvia Hale. We rarely do so, but in this case I believe the urgency is clearly proven, at least as far as I am concerned.

**Dr JOHN KAYE** [11.22 a.m.]: I support the motion by Ms Sylvia Hale for urgent debate on her call for papers. The matter is urgent simply because of the consequences of not having papers in the public domain within the time frame that applies to development of the Barangaroo site. Clearly such matters must be in the public domain so that there can be proper and informed public debate about the issue of chemical pollution on the site. There is a great deal of evidence of substantial groundwater pollution and that the development will increase the flow of groundwater pollution into surrounding buildings and into Sydney Harbour. It is very important that documents relating to that issue are placed in the public domain. This matter is clearly more urgent than a large number of matters that presently are listed for debate, including the issue of agricultural shows and town festivals—with all due respect to the Hon. Michael Veitch.

**The Hon. KAYEE GRIFFIN** [11.24 a.m.]: Dr John Kaye referred to remediation of the Barangaroo site, to which the Government is committed. The people of New South Wales expect this House to be working on important issues. This week we have the opportunity to deal with many items of private members' business that were not able to be debated during the previous session. It is important for a number of those private

members' issues to be debated today or tomorrow when there is an opportunity to do so. This afternoon there will be take-note debates on committee reports and debate on budget estimates. It is important for us to continue to deal with items of business inside the order of precedence. The motion is not urgent.

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

**The House divided.**

**Ayes, 21**

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

**Noes, 17**

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

**Question resolved in the affirmative.**

**Motion agreed to.**

**Order of Business**

**Motion by the Hon. Sylvia Hale agreed to:**

That Private Member's Business item No. 269 outside the order of precedence be called on forthwith.

**BARANGAROO DEVELOPMENT**

**Ms SYLVIA HALE** [11.32 a.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents, created since 1 January 2006, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Treasurer, NSW Treasury, the Minister for the Environment, Climate Change and Water, the Department of the Environment, Climate Change and Water, the Environment Protection Authority, the Minister for Planning, the Department of Planning, the Barangaroo Delivery Authority, the Sydney Harbour Foreshore Authority, the Minister for Lands, the Department of Lands, the Minister for Ports and Waterways and NSW Maritime, relating to contaminated land at and in the vicinity of the Barangaroo site and at 30, 32, 34, 36, 38 Hickson Road, Millers Point:

- (a) all documents relating to and including the Human Health and Ecological Risk Assessment,
- (b) all documents relating to and including the Voluntary Management Proposal,
- (c) all reports relating to contamination at and around the Barangaroo site, including but not limited to all and any reports provided by Dr Ian Swane of Sinclair Knight Merz,
- (d) all documents on actual or proposed remedial action plans for the Hickson Road/Barangaroo locality,
- (e) all documents relating to assurances by any affected party that remediation of polluted land would be carried out,
- (f) all documents on aquatic ecosystems in Darling Harbour, and
- (g) any document which records or refers to the production of documents as a result of this order of the House.

I have no wish to speak at length on this topic. The preceding vote of the House clearly indicates that the majority of members believe these papers should be released as a matter of urgency. I would be most disappointed if the Government attempts to prevent that decision being made, because as the Minister for Planning is so often fond of reminding members, if you have nothing to hide, then you have nothing to fear. I suggest that if the Government has nothing to fear at all about what might be released by this call for papers, it will not oppose their release to the public.

The significant thing about the Barangaroo site and the land immediately adjoining it is that it is on top of what was the former Australian Gas Light Company gasworks. The gasworks were constructed in 1843 and they ceased to operate in 1921. Between 1921 and 1970, the Maritime Services Board effectively concreted much of the area and provided seawalls to allow for wharves to be developed and for container ships to be serviced. By doing so, much of the contamination that exists on the old gasworks site has been contained. Indeed, the Department of the Environment, Climate Change and Water recognises the ongoing problems associated with former gasworks sites. On its own web site it says:

Typically gas works were located near waterways or train lines for delivery of coal. ...

The soil and groundwater at these former gasworks sites are invariably contaminated by materials produced during the gas-making process even though operations ceased many years ago. These sites need some level of assessment to ensure that the contamination is not posing a threat to human health or environment.

It goes on to say that many of the principal wastes can be identified visually or by the odour they emit; for example, tar oils are easily identifiable as black, odorous ooze. It then says that heavy metals and complex cyanides do not break down and will remain in the soil unless they are leached out. That is indeed the case with the old gasworks site, with the buildings on Hickson Road and the Barangaroo site itself. It is very clear. In fact, the site was investigated by the Department of Environment and Climate Change [DECC] and found to pose a significant risk of harm.

There is a difficulty with the proposal to excavate on the site. Indeed, Lend Lease has applied for permission to construct a basement car park at Barangaroo. Public submissions close on 10 September. It is absolutely vital that when assessing the decision of the Minister for Planning whether to approve that application the public is fully informed about the risks posed by the excavation. It is well known that carcinogenic pollution in the form of benzene, cyanide and polycyclic hydrocarbons is present on the site of the old gasworks.

The bottom building at 38 Hickson Road, constructed by Lend Lease, regularly pumps out contaminated seepage from its Level 4 basement, because the source of the contamination was not remediated before the building's construction began. Indeed, that building, The Bond building, was constructed by Lend Lease and its development was announced on 30 April 2003 by the then Premier Bob Carr, but in November 2004, after completion of the development, there were complaints of the odours emanating from the basement of 38 Hickson Road. As I have previously mentioned, it is not uncommon for these odours to be present at former gasworks sites.

The very deep excavation into the car park poses very serious risks, not only to Barangaroo itself, but also to Darling Harbour, if the source of the contamination is not dealt with. Not only is it likely that pollution will travel underneath Hickson Road and will spread further through the Barangaroo site, but when the seawalls are demolished to permit articulation of that shoreline and to allow the construction of canals and coves, it is highly possible that this extraordinarily toxic pollution will then seep into Darling Harbour itself, with very dangerous implications for the harbour and its aquatic systems.

Lend Lease has certainly indicated that it intends to remediate the soil on the Barangaroo site itself, but it has given absolutely no indication or any undertaking that it will deal with the source of contamination. These documents, I hope, will reveal to the public whether any undertakings have been given; they will indicate just what the assessment is of the risks to human health and to the environment; they will provide details of the voluntary management proposal; and they will also, I trust, reveal information as to any assurances that may have been given.

Recently the Barangaroo Delivery Authority said that the public should trust it to produce the best outcome at Barangaroo. However, I believe it is essential, and in the public interest, that these documents be made available so the public may judge for itself whether the risks of contamination are being adequately dealt with, because if they are not being adequately dealt with and the remediation spreads there is the great

possibility that the people of New South Wales, the State Government and the residents of the city of Sydney, via the council of the city of Sydney, could find themselves in a position in which they are being forced to shoulder the cost of remediation. That could be as a result of the failure of Lend Lease to address itself to the source of that pollution to ensure that that is adequately remediated before any excavation takes place. I commend the motion to the House.

**The Hon. SHAOQUETT MOSELMANE** [11.41 a.m.]: Barangaroo is a rare and exciting opportunity to create a thriving new harbour side precinct for the people of New South Wales. Indeed, Barangaroo provides a unique opportunity to give back to the community a significant portion of public space to be used by locals and Sydney's many visitors alike. The designers and planners working on Barangaroo will deliver an active public domain with new cultural, entertainment and recreational spaces. In addition, Barangaroo is set to become one of the first central business district precincts in the world to be climate positive, setting a new standard in sustainability. Barangaroo is key to the future of Sydney and to the people of New South Wales. It is a once in a 200 year opportunity to create something of which we and future generations of Sydneysiders can be proud. We have a unique public space and international environmental standards. There is no conspiracy in this.

Remediating the historic site contamination at Barangaroo is a priority and the Government is taking clear and purposeful action in this area. Like many post-industrial sites, Barangaroo has some below-ground contamination, mainly related to the Millers Point Gas Works, but also to port construction and its operation as a ports maintenance area. The Millers Point Gas Works operated on the site from 1840 to 1921, on a site which included the area now known as Barangaroo and Hickson Road. This area has been declared by the Department of Environment, Climate Change and Water as a remediation site under the New South Wales Contaminated Land Management Act. From 1922 to 1925 structures forming part of the gasworks were demolished, and subsurface structures associated with the gasworks were covered over. After 1925 the Barangaroo site was used mainly for ship berthing and associated activities.

At the same time as the Government announced that the stevedoring wharves at East Darling Harbour would be transformed into a new urban precinct, it also announced that the historic contamination of the site that has been around for almost 200 years would be cleaned up. The remediation of contaminated areas across Barangaroo will be managed during all phases of the development, ensuring that people have no unacceptable exposure to the contamination and the environment is adequately protected. In addition, the Barangaroo Delivery Authority's approach to the remediation of the former Millers Point Gas Works site is one that enables, through the Contaminated Land Management Act, the potential for cost recovery. Approved from 23 July, the voluntary management proposal, which was agreed by the authority and the Department of Environment, Climate Change and Water, contains the detail of the timing and scope of works for the remediation of the former gasworks in the declaration area.

In the first phase of the proposal program the authority will undertake investigative works to identify and seek approval for the preferred remedial strategy to address groundwater contamination on the site. It will prepare the necessary remedial action and remedial work plans to satisfy the requirements of the Department of Environment, Climate Change and Water. It will also obtain the necessary approvals from the independent site auditor—I emphasise independent—to progress works. Only when the necessary approvals have been received will the authority begin to implement the remediation works. Assessment of remedial options for the site is currently being undertaken. This includes testing and surveying to adequately identify the nature and extent of the contamination in the declaration area; preparation of a human health and ecological risk assessment, which will inform the extent of the remediation clean-up; and testing technologies that may be appropriate for remediating the site.

The results of this assessment will inform the remedial action plan, which contains the detail as to how and when the site will be remediated and what technologies will be used to do so. It is important to note that the remedial action plan will be submitted to the independent site auditor for approval and then to the Department of Environment, Climate Change and Water for its approval. The subsequent remedial work plan will also be referred to the site auditor and the Department of Environment, Climate Change and Water, both of whom are required to give their approval in order for remediation works to commence.

The Barangaroo Delivery Authority is undertaking to remediate a contamination site that has been dormant for a very long time. The intention is to create a thriving new precinct for the people of New South Wales. In order to achieve that goal, the authority is following all the rules and adhering to processes overseen by the Department of Environment, Climate Change and Water, which have been established to ensure that proper measures are put in place to protect the public and achieve the best outcome for the site. At the outset I said that this is a once in a 200 year opportunity. We will not compromise that opportunity.

**Reverend the Hon. FRED NILE** [11.47 a.m.]: I voted in support of this motion to ensure that every action is taken to ensure that no danger to human health or ecological problems results from development of the Barangaroo site. I put on the record my support for the project as outlined by the Hon. Shaoquett Moselmane. I believe the development is a most important project for the people of New South Wales and that it should not in any way be prevented from proceeding or be sabotaged. Some groups and organisations are campaigning against the whole project for various reasons, but I believe we should give this project our full support. The development will make a great contribution to Sydney, as did Darling Harbour previously, the Opera House and so on. I am sure that Lend Lease, which is investing a great deal of money in this project, is more concerned than members of this House to ensure that the site is adequately remediated of all possible chemicals and other dangers to ensure the financial success of the project. I simply record my complete support for the project at Barangaroo Point.

**The Hon. ROBERT BROWN** [11.48 a.m.]: I put on the record my views and those of the Shooters and Fishers Party about this issue. Like Reverend the Hon. Fred Nile, we support the development on what was the Hungry Mile. If it is built the way it is proposed to be built, it will be a beautiful public asset for the people of New South Wales. However, we are concerned that before anything happens as much public information as possible should be made available about the proposed methodologies and how that will be taken into account in the planning. We have some examples that we can call on. We have seen the long process of remediation of the Homebush Bay east site and the problems there. We have seen the closure of commercial fishery in Sydney Harbour as a result. Mr Ian Cohen and I were members of a committee that looked at the potential radioactive contamination of sites in Hunters Hill and its effect on the waterway.

Whilst I have every confidence that a company like Lend Lease will do the right thing—I worked for that organisation for eight or ten years—and that the Government and the Environment Protection Authority will monitor this correctly, surely it cannot hurt to look at the processes that have been undertaken in getting to this point. I supported the urgency because Ms Sylvia Hale was quite correct when she said that the timing is imminent. I accept the Government's assertion that things will be done properly but it does not hurt to have those documents made available in the time frame that has been requested by Ms Hale.

**The Hon. CATHERINE CUSACK** [11.51 a.m.]: On behalf of the Liberal-Nationals Opposition, we support this motion. The problems at Barangaroo are only going to be exacerbated if the Government continues a secretive approach to the contamination issues. The reason the Government is reticent to release information about Barangaroo is the big question of who will be liable for the costs of remediating the contamination and what constraints will that place on the site once the full extent of the contamination and the costs of remediation are known. If the Government has learnt nothing else over the past 15 years, it must know that pulling the blanket over its head and trying to pretend that there is not a problem such as contamination at Barangaroo, does not make the problem go away. We need greater transparency and information so that there can be a measure of support and a rational approach to solving those problems.

If the Government delays releasing this information and putting in place transparent strategies, it effectively ends up delaying the project as a whole because it cannot gain the public support and acceptance that is necessary for it to be a success. The Hon. Robert Brown earlier mentioned examples of some contaminated sites but there are many other industrial sites around Sydney Harbour and indeed in other places such as in the Hunter Valley and in the Illawarra. He referred particularly to a Homebush Bay remediation project of which the Liberals and The Nationals are extremely proud. Homebush Bay is a case in point where the opportunity of hosting the Sydney Olympics was obtained by the Fahey Government and resulted in an opportunity to invest the sums of money needed to remediate that site.

I urge the Government to look at the model used by Homebush Bay, which involved community consultation, committees, a series of exhibitions, the involvement of everybody in local council areas and a proper amount of money being spent planning and carrying out environmental impact studies. With that information we reached the point where some parts of the site were simply too expensive to remediate and the master plan for Homebush Bay was able to determine a strategy, particularly in relation to not proceeding in the area of the brick pits, and for other sites it was cost effective. What is wrong with that approach? Everybody knows where they stand. There are no nasties lurking in the cupboard waiting to jump out and bite the developer, the public or the Government for that matter.

It saddens me that it is necessary for the Parliament to constantly go down this path with the Greens moving a motion which seeks to have more information available. This information is owned by the public and ought to be available to the public. What is the extent of the problem? In this way we can be confident that the

Government's tender strategies for the site ensure that adequate provision is being made for the remediation of those contamination hotspots at Barangaroo, and also that the zoning of the site is appropriate. As I say, the history of Homebush Bay suggests that it is not about sterilising an entire development area but about actually understanding the area much better and working out what is reasonable or not reasonable. Everybody wants to cooperate. Please put the information on the table.

**The Hon. KAYEE GRIFFIN** [11.55 a.m.]: The Government has been very open and transparent with information related to the remediation of the historic contamination at Barangaroo. The Government expects the remediation of the site to commence in December this year, subject to planning approval, with trials of new non-invasive technology the first step in this process. This non-invasive technology, known as in situ chemical oxidation, uses chemicals that break down the contamination underground, providing an option that is less invasive and will have less impact on the community. This technology has been successfully used around the world to remediate former gasworks sites. Once these trials are completed, full-scale remediation will take place as specified in the Remediation Action Plans under the Voluntary Management Proposal. The community has been, and will continue to be, consulted at all stages of the remediation process.

In fact, on 24 February 2010, a community letter and information fact sheet was delivered to residents surrounding the site. This outlined site investigations that were commencing at Barangaroo, to determine the extent of the contamination of the site and to inform the best method to remediate the site. This enabled the Government to determine that the contamination could be treated with the non-invasive method that breaks down the contamination to water and carbon dioxide. An application to the Department of Planning to conduct these trials will be made in the coming weeks. The Government has been meeting with residents living close to the site to inform them of the trials scheduled to take place late this year and the timetable for remediation over the next few years. For example, on 6 July this year, the authority met with residents and owners of 38 Hickson Road, where detailed information was presented on the contamination, non-invasive trials and future remediation of the site. Just four days later the authority met with the Millers Point Resident Action Group, where a presentation was made on the overall remediation requirements for Barangaroo. The Department of Environment and Climate Change also attended this meeting. On 11 July the authority met with the executive committee of 38 Hickson Road to discuss specific matters relating to remediation and the non-invasive trials.

The authority is committed to meeting with residents on remediation, to answer their questions and provide up-to-date information on the process. The community can be assured that no contaminated materials deemed unsafe will remain on site or be used on site. Community safety is, of course, paramount for the remediation of the site. The authority has engaged an independent site auditor who is certified by the Department of Climate Change and Water. There is also a section on the Barangaroo Delivery Authority website which includes a range of materials related to remediation. This includes the Voluntary Management Proposal that Ms Hale is seeking in her motion. It has been available on the website since June this year.

The Greens go on and on about a so-called "non-transparent" process but the simple fact is that they are too lazy to look for the information which has already been made publicly available by the Barangaroo Delivery Authority. The Voluntary Management Proposal also includes two fact sheets on remediation that address many of the questions from the community. The Barangaroo website will be continually updated with information on remediation, as reports are completed. The Government is being completely open with remediation of the site, and will continue to keep the community informed of this important issue. The historical contamination at Barangaroo will be cleaned using ecologically sustainable development principles. No longer is it acceptable to dig and dump, instead far more environmentally friendly measures are used. The remediation of the contaminated area at Barangaroo will be undertaken in accordance with industry best practice, sustainable remediation principles and the requirements of the human health and environmental risk assessment undertaken at the site.

The majority of the excavated material from the contaminated area at Barangaroo will be able to be treated, stabilised and re-used on site. This process will be subject to a number of levels of scrutiny and acceptance. In the first instance the Barangaroo Delivery Authority has engaged its own remediation expert, highly regarded in the field, who will provide assessment on the validation of the remediation works. Additionally, an independent site auditor, accredited by the New South Wales Department of Environment Climate Change and Water, will review all aspects of the remediation works. This site auditor will issue a site audit statement certifying the suitability of the remediated land only when satisfied that the remediation works have been completed successfully. Also the Department of Environment, Climate Change and Water will be regulating the remediation of the declared significantly contaminated site and will review reports prepared by the authority's consultants, the authority's independent remediation expert and the site auditor.

In addition, during the course of the remediation works, rigorous programs of monitoring and reporting of environmental and human health values will be undertaken in accordance with requirements of the development consent. This is a rigorous process that will be undertaken to the highest standard. It is something in relation to which our experts in New South Wales have demonstrated a strong track record. I was interested to read recently in the *Daily Telegraph* that the value of homes in the Sydney 2000 Olympic Village at Newington has doubled in the 10 years since they were first sold. What especially caught my eye was that these homes are on land that was once contaminated. The article reads:

What was once an abattoir, a dump and a polluted drain is now ... thanks to the Olympics ... a sought after Sydney suburb.

This reminds us that Sydney is good at restoring and cleaning up industrial sites. This process of remediation is not new to us. The Australian Gas Light Company [AGL] owned and occupied the site of the former Darling Harbour gasworks from 1839 to 1912 when the site was resumed to expand the wharf for shipping operations. What is important to note is that a number of former gasworks sites similar to the former Millers Point Gasworks on Barangaroo have been successfully remediated in New South Wales. Gasworks that have been successfully remediated in the Sydney area for residential and open space use include Mortlake, which was home to what was once the largest gasworks in the Southern Hemisphere. It is now the Breakfast Creek residential and public open space precinct. Waverton is now the Wandakiah residential estate and public open space precinct, while Little Manly has become public open space. Many gasworks located in other parts of New South Wales and other States have also been successfully remediated to allow residential, commercial and open space land use with minimal impact to neighbours and the environment. We can be proud that land that is currently contaminated will be cleaned up, benefiting the environment and the people of Sydney.

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

## QUESTIONS WITHOUT NOTICE

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### POLICE ALCOHOL USE

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Attorney General, who has previously spoken in this House of the dangers of excessive drinking, a serious health issue that needs to be tackled head-on. Is the Attorney General aware of the disturbing number of off-duty police officers who have been detected with above legal alcohol readings at roadside random breath testing locations throughout the State in recent months? Is he aware of action being taken to address this worrying issue and to ensure that workplace or occupational conditions are not contributing to these events?

**The Hon. JOHN HATZISTERGOS:** I am not aware of the details of the member's question. The Government has a range of initiatives in place dealing with persons who are involved in excessive drinking of alcohol. They have been the subject of extensive media commentary. Issues concerning more specifically police should more appropriately be addressed by the appropriate Minister, and I will refer that aspect of the member's question to him.

### STATE ECONOMY

**The Hon. GREG DONNELLY:** My question without notice is addressed to the Treasurer. Would the Treasurer update the House on the latest economic data?

**The Hon. ERIC ROOZENDAAL:** I thank the member for his question and interest in this ongoing good news matter—indeed, more good news for the New South Wales economy. I am pleased to advise members of breaking news this morning: the release of the national accounts by the Australian Bureau of Statistics. Australia's official data keeper reveals State Final Demand for New South Wales grew by 5.7 per cent through the 2009-10 financial year. This figure is above the national average of 5.3 per cent growth. This means that New South Wales has seen six consecutive quarters of growth in economic activity—great news for our economy and great news for New South Wales. This is good sustained economic growth. For the June 2010 quarter, New South Wales State Final Demand grew by 1.3 per cent, equivalent to the national average. How fitting that on this first day of spring we have more evidence that the green shoots of economic recovery are growing in New South Wales.

Australian Bureau of Statistics figures show that both consumer spending and housing investment are driving economic growth in New South Wales. That is good news for the New South Wales economy and

good news for the people of New South Wales. Let me be crystal clear on this point: State Final Demand is the best and most timely available measure of a State's economic performance. State Final Demand is unquestionably a measure of economic activity and economic growth. Without a doubt, the Australian economy leads the developed world, and the stimulus policies of both the national and state governments averted a recession in this country. I note the recent comments of Joseph Stiglitz, Nobel Laureate and former World Bank chief economist, who told the ABC's *7.30 Report* on July 27:

Australia had the shortest and shallowest of the downturns of the advanced industrial countries.

Your recovery actually preceded ... in some sense, China. So there was a sense in which you can't just say Australia recovered because of China.

That is yet further evidence of the strength of the Australian economy and the New South Wales economy. Just yesterday I reported to the House more good economic news: retail sales up in New South Wales and above the national average for July 2010; building approval data showing total dwelling approvals in New South Wales increased by 9.7 per cent in July, significantly above the national average increase of 2.3 per cent; and more strong jobs growth—more than 93,000 jobs created in the New South Wales economy since March, a year ago, and 16,397 jobs created in New South Wales in June alone. I will keep members further informed of more good news in relation to the New South Wales economy and, of course, the Australian economy.

### LAKE BURRENDONG STATE PARK

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Planning and Lands. Is the Minister aware that it has been more than 16 months since site holders at Lake Burrendong State Park were banned from development, transfer or sale of their site, forcing them to stay and pay the large site fees that include a \$500 increase since April last year? Does the Minister recall his answer to a question on this issue in June when he said the moratorium was to be lifted and site holders could now sell? Is the Minister also aware that, according to site holders, the moratorium is still in place and that in the August edition of the Burrendong newsletter the administrator Graham Cross states:

I still have no date for when I can lift the Moratorium ...

Was the Minister aware of this and, if so, what is he going to do for these site holders?

**The Hon. TONY KELLY:** I thank the member for his continued interest in Lake Burrendong and the Lake Burrendong caravan park lessees. Obviously I too am very interested in the area as it is very close to my home. The administrator of Lake Burrendong State Park is working closely with Wellington council to ensure that the longstanding compliance issues for Lake Burrendong and Mookerawa Waters caravan parks are addressed and resolved. The council has approved licences for the Lake Burrendong caravan park and the Eagle Beagle caravan park, which is also at Lake Burrendong. The council has also approved an expansion of the original caravan park from 167 sites to 300 sites, which I understand will make it the largest caravan park west of the mountains. A formal resolution to the compliance issues has been submitted to the council and will then be referred to the Department of Planning. It is hoped that the moratoriums on building development and the sale of onsite vans can be lifted by October 2010—next month—after the resolution of those issues. That is my advice, and I will ensure that, whilst it will be appropriately dealt with, it will be speedily dealt with once it comes to the Department of Planning. I think we will have to wait for a council meeting this month before it is forwarded on.

The Trust has raised site fees and submitted applications for funding to help address significant compliance requirements under the local government legislation. Those requirements include the installation of mandatory fire suppression infrastructure and the implementation of a range of other compliance and operational issues. I know it has been a very difficult period for the users of the caravan park, but I congratulate them on their continued patience and very much appreciate the support of the mayor Anne Jones and council staff.

### STATE TRAUMA PLAN

**Reverend the Hon. FRED NILE:** I direct a question without notice to the Hon. John Hatzistergos, representing the Minister for Health. Are senior doctors correct in stating that lives are being put at risk by the new State Trauma Plan, which was introduced in March 2010? Is it a fact that this Trauma Plan is underfunded

and causing delays in treatment? Will the New South Wales Government reinstate major hospitals, such as St Vincent's Hospital and Nepean hospital, in the Trauma Plan? What action is the New South Wales Government taking to review and improve the State Trauma Plan?

**The Hon. JOHN HATZISTERGOS:** I will refer the matter to the Minister for Health.

### REGIONAL INVESTMENT

**The Hon. CHRISTINE ROBERTSON:** My question is directed to the Treasurer, Minister for State and Regional Development, and Special Minister of State. Will the Treasurer update the House on the latest investment in regional New South Wales?

**The Hon. ERIC ROOZENDAAL:** More good news for the New South Wales economy. Many members will be aware of Forgacs Engineering, an incredible success story for Newcastle and an important component of New South Wales's defence industry infrastructure. I am pleased to report that with support from the New South Wales Government Forgacs is expanding its ship repair and engineering yard at Carrington. It is a good news success story from regional New South Wales.

Forgacs has secured two contracts that will support around 93 new jobs and 90 ongoing jobs in Newcastle. The two contracts will see Forgacs convert a former Norwegian 6,600-tonne charter ship into a state-of-the-art border patrol vessel for Australian Customs. Forgacs will also supply locomotive underframes for Australia's largest railway equipment manufacturing company, United Group Limited. Capital investment of \$10 million is planned by Forgacs.

As regional New South Wales recovers from the worst drought in decades the green shoots of recovery are starting to bloom. In the past two years alone the New South Wales Government has supported the creation of 9,581 jobs in regional and rural New South Wales and has attracted more than \$2.4 billion in capital investment, underwriting economic growth and, importantly, driving employment. That is why when I talk about these important matters in rural and regional New South Wales I am constantly astounded by the party that claims to stand up for the people of country New South Wales. Of course I am referring to The Nationals.

The Nationals recently held an annual golf day. One may ask: Where would the alleged representatives of country New South Wales hold an annual golf day? Well, they held it in Sydney. They would not go to any common public golf course. The Nationals—the landed gentry of country New South Wales—would not tarnish their nice white brigade shoes on a public golf course; they went to an exclusive eastern suburbs private golf course that has a joining fee of more than \$8,800 and an annual membership fee of another \$2,500. The Nationals came to Sydney's St Michael's Golf Club at exclusive Little Bay for their annual golf day. The golf club is so exclusive that membership is currently closed and there is a waiting list. It is about as far away from country New South Wales as you can get. Why did they choose that golf club? Of course they chose it for this view.

**The Hon. Don Harwin:** Point of order—

**The PRESIDENT:** Order! There is no need for the member to raise a point of order. I have advised members previously that the use of props is unparliamentary. I remind the Treasurer, the Leader of the Opposition and the Deputy Leader of the Opposition that they should not use props in question time. I direct the Treasurer to place the photograph face down on the table.

**The Hon. CHRISTINE ROBERTSON:** Will the Treasurer elucidate his answer?

**The Hon. ERIC ROOZENDAAL:** Not only does it overlook the Pacific Ocean, its website explains—

**The Hon. Don Harwin:** Point of order: Madam President, this is an absolute joke. The Treasurer's answer is still out of order and you should not have even allowed the elucidation. It is a joke!

**The PRESIDENT:** Order! There is no point of order. I remind the Hon. Don Harwin that props were being used at the time by the Treasurer, the Leader of the Opposition and the Deputy Leader of the Opposition, all of whom were directed not use props. I take this opportunity to remind all members that they should not use props. The Treasurer may continue.

**The Hon. ERIC ROOZENDAAL:** This private golf course is described as "cleverly crafted among the natural bushland of the Botany Bay Peninsular". I am shocked, and I have to ask why they did not go to Dubbo Golf Club—18 holes for \$28—near the world-famous Dubbo Zoo? What about the Port Macquarie Golf Club? Apparently those clubs are not good enough for this landed gentry that is The Nationals. There is even the Crookwell Golf Club—which I know the Hon. Duncan Gay knows well—which is known throughout the Southern Highlands as "the friendly club". Although The Nationals had a choice of genuine country golf courses, they chose to go to a Sydney eastern suburbs private golf course. It is the clearest evidence that I have ever seen of how out of touch The Nationals are. The Hon. Don Harwin has to lumber up to try to defend them because they are too ashamed to defend themselves.

We will continue to support regional New South Wales and companies like Forgacs. We want to see Forgacs expand and ensure that the Hunter and New South Wales remain at the forefront of advanced maritime and defence manufacturing. [*Time expired.*]

### DISABILITY SERVICES FUNDING

**Mr IAN COHEN:** My question is directed to the Treasurer. Will the Treasurer advise the House what information he has been provided about the statewide Stronger Together II consultations? The Federal Parliamentary Secretary for Disabilities and Children's Services has described shortfalls in funding for disability services as the last frontier in practical civil rights. Is the New South Wales Government currently prioritising and investing sufficient funds for disability services to meet the challenges of this last frontier? Is the Treasurer committed to funding effective disability services that enhance the opportunities of people with disabilities to participate in society and live dignified lives?

**The Hon. ERIC ROOZENDAAL:** Of course, Stronger Together is an ongoing program that has another year to run. The Premier has made it clear that the consultation process has begun in relation to developing a Stronger Together II program.

### BUDGET PERFORMANCE MEASUREMENT

**The Hon. GREG PEARCE:** My question is directed to the Treasurer. Noting that his Government has consistently failed to comply with the net financial liabilities and net debt targets in the Fiscal Responsibility Act and that the Act is due for review by 2011, has that review begun and what instructions has the Treasurer given as to an appropriate approach to benchmarking New South Wales's budget performance? If the review has not begun, when will it begin and what benchmarks will the Treasurer specify for future measurement of budget performance?

**The Hon. ERIC ROOZENDAAL:** I am more than happy to talk about the Fiscal Responsibility Act because at the time that Act was announced and enacted it was a very, very different world. I know the Hon. Greg Pearce knows—clearly some of his colleagues do not know anything—that it was done at a time before the global financial crisis had impacted. It was done at a time when governments did not engage in the sorts of levels of capital investment in infrastructure that they do now. We are working towards the targets in the Fiscal Responsibility Act—some of those we have not met; others we will meet in relation to unfunded liabilities—and we will go through the appropriate review.

### LAND AND ENVIRONMENT COURT

**The Hon. IAN WEST:** My question is directed to the Attorney General. What is the latest information on the Land and Environment Court?

**The Hon. JOHN HATZISTERGOS:** Today marks the thirtieth anniversary of the establishment of the Land and Environment Court in New South Wales, a court that plays an important role in delivering justice to the people of New South Wales—a point that I emphasised this morning when I opened the 2010 Australasian Conference of Planning and Environment Courts and Tribunals in Sydney. I understand that the Hon. Greg Pearce was a great litigant in that court when he was in private practice—usually on the losing side, but we will leave that for the moment.

Since its establishment on 1 September 1980 the court has exercised exclusive jurisdiction over environmental, planning, building and development matters. This represented an innovative and revolutionary approach to creating a one-stop shop for resolving environmental problems. The court is also a centre for

excellence and is in some respects a think tank, developing a coherent and robust body of environmental jurisprudence. When the first Chief Judge of the court was asked what he thought was his role in the court, Jim McClelland said:

... to draw the line somewhere between those who wanted high-rise building in the Botanic Gardens and those who want to turn Pitt Street into a rainforest.

Environment law was and is an exciting field for a judge and is the forum wherein the balance of competing environmental, social and development considerations is struck. Wherever that balance may be, a judge of the court is in the best position to determine it. Before the court came into existence, the mechanisms for resolving environmental disputes were starkly different. There were myriad courts and government bodies that carried out different functions—a fragmented system that led to inconsistencies in decision-making and unnecessary delays. That is why Parliament decided that a single Land and Environment Court needed to be established. This in effect created a multi-door courthouse offering one of the world's most effective dispute resolution paradigms.

There are numerous innovative features of the Land and Environment Court. Four such features are that, firstly, it is an independent judicial body with the status of a superior court of record; secondly, although the court administers environment law, it draws on the diverse expertise of its judges and commissioners in the environmental field other than just legal expertise; thirdly, aside from just offering compensatory remedies the court can impose criminal sanctions and make other orders such as the carrying out of an environmental project; and, fourthly, the court is also an innovative institution because it makes use of various alternative dispute resolution processes.

In proceedings before the court a range of dispute resolution processes cater to the specific needs of parties to a dispute. These processes include conciliation, mediation, early neutral evaluation, administrative merits review and litigation. Section 34 of the Land and Environment Court Act provides that the court may arrange a conciliation conference between parties, with or without their consent, if there is a proceeding pending in class 1, 2 or 3 of the court's jurisdiction. These classes are some of the most common areas of dispute that go before the court. They relate to environmental planning and protection appeals, local government appeals and land tenure, valuation and compensation matters. The conciliation conference is presided over by a single commissioner. If the parties cannot come to any agreement, the matter is brought before a judge for determination. Even if they cannot settle, the real issues in dispute can be identified so subsequent litigation does not have to be protracted.

In 2005 there were 17 conciliation conferences. In 2009 there were 481. This is testament to just how successfully the court has promoted the just, cheap and quick resolution of disputes. Since the court's establishment, and even today under Chief Judge Preston, the Land and Environment Court has undergone and continues to undergo significant reform that has seen a continued emphasis on the removal of the adversarial nature of many proceedings and reform that has encouraged and emboldened parties to work towards the best outcome rather than just winning or losing.

### **GEORGE STREET LEASE**

**Ms SYLVIA HALE:** I address my question to the Minister for Planning. In response to my letter to the Minister of 14 December last year about the failure to call public tenders for the leasing of 100 George Street, Sydney, the Minister wrote, "I am advised that calling for expressions of interest for the property may not have delivered the same level of financial and heritage benefits." I note that the Minister did not say to whom. In light of the revelations in this morning's *Sydney Morning Herald* about the leasing of 100 George Street and other properties and dealings between the Sydney Harbour Foreshore Authority and the Kazal family, does the Minister still have the same faith in the advice that he received? If not, what action has he taken or does he plan to take?

**The Hon. TONY KELLY:** I thank the member for her question. The Land and Property Management Authority is investigating all the allegations reported in the *Sydney Morning Herald* this morning and has referred the matter to the Independent Commission Against Corruption.

### **ELECTRICITY INDUSTRY REFORM**

**The Hon. MATTHEW MASON-COX:** My question without notice is directed to the Treasurer. Will he confirm that the structure of his Government's power sale is doomed to fail and whether he now intends to sell only the retailers and ditch the gentrader model after failing to attract sufficient buyer interest, despite having spent many millions of dollars on the sale process so far?

**The Hon. ERIC ROOZENDAAL:** What an extraordinary question. We are in the middle of a very serious transaction process. As I have advised the House, we have opened the data rooms—

**The Hon. Duncan Gay:** No you haven't.

**The Hon. ERIC ROOZENDAAL:** You would not know, Duncan, you are half asleep. We are in the middle of a very serious transaction in which we will be selling the retailers, development sites and the gentrader contracts. There has been a substantial marketing campaign both nationally and internationally and there has been very strong interest nationally and internationally, yet a member opposite has asked a question that is full of incorrect statements in yet another attempt by the Opposition to sabotage a key transaction of this Government.

I thought Coalition members were business friendly. I thought they actually supported business, yet they make ridiculous statements. I invite them to read the back page of the *Australian Financial Review* today. Members opposite cannot miss it; it takes up the whole back page. It outlines a more rational history. There is strong interest in the transaction and there are a number of buyers in the data rooms at the moment examining the information. The gentrader contracts are in the data rooms and more data will be populated into those as we continue the process. We have set an end date of 1 November, and all of the reports from the various financial advisers, probity officers and Treasury are that we are on track.

It is insulting to the hard work of those officers and an insult to the people of New South Wales that a member opposite should make claims that are unsubstantiated and that he knows are wrong. He knows they are wrong but he still makes them. This goes to the heart of the matter. There are some people, particularly members opposite, who will do or say anything to score a cheap political point even when they know they are blatantly wrong. Check out the *Australian Financial Review* today. It is much more accurate, much more detailed and much better informed than the question.

#### DISABILITY SERVICES

**The Hon. MICHAEL VEITCH:** My question is addressed to the Minister for Disability Services. Can the Minister update the House on how the New South Wales Government is addressing the needs of people with a disability, their families and carers through Stronger Together?

**The Hon. PETER PRIMROSE:** I thank the honourable member for his question. As we approach the halfway mark of Stronger Together, the New South Wales Government's 10-year plan for disability services, we have taken the opportunity to conduct an extensive consultation program to inform the next five years of the plan. We were strongly committed to ensuring that the consultations took into account a diversity of views to help shape the future of disability services in New South Wales.

The Premier launched a consultation process on 2 June 2010 with the first meeting of the round table, which was made up of families and their representatives, advocacy groups, the Disability Council of New South Wales, peak disability organisations, Carers NSW, funded service providers and trade unions. During June and July 2010 I attended a series of 13 consultations across the State in both metropolitan and regional and rural areas. Consultations were held in metropolitan areas such as Chatswood, Drummoyne, Gymea, Narellan and Parramatta. Regional and rural area consultations were held at Bathurst, Dubbo, Lismore, Newcastle, Tamworth, Wollongong, Queanbeyan and Wagga Wagga. Over 300 people attended these consultations, including approximately 100 people with a disability, their families and carers. One hundred service providers, peak organisations, local and State Government agencies, interested community members and elected representatives also attended.

I would also like to thank members of Parliament who participated in the consultations, including the members for Bathurst, Drummoyne, Dubbo, Miranda, Camden, Wollondilly, Swansea, Newcastle, Wallsend, Charlestown, Parramatta, Monaro, Tamworth and Wollongong. The chief executive of Ageing, Disability and Home Care and a representative of the Disability Council of New South Wales, the official advisory body of the Government on disability matters, also attended each meeting.

We received 420 written submissions following the consultation paper from people with a disability, their families and carers, as well as a broad spectrum of service providers and advocates. As with the first stage of Stronger Together, stakeholder consultations will be critical in making sure we get the next five years right for people with a disability in New South Wales. I note, for example, that one of the key messages to come out

of the consultation process is that people want more choice and control over how the funding currently allocated to them is used. We have heard that message from the community, and the New South Wales Labor Government will, as part of the next five-year phase of Stronger Together, deliver personalised funding arrangements for people with a disability as part of our person-centred approach.

I thank those people with a disability, their carers and families for sharing their stories with us during the intensive consultation period. I am grateful for their contributions and will ensure that their input is at the heart of the second phase of Stronger Together. The first five-year phase of Stronger Together delivered an extra \$1.3 billion in funding for people with disabilities in New South Wales, providing an extra 20,000 service places in areas such as respite, supported accommodation, therapy, community participation and case management services. The Keneally Government will continue to work in partnership with the more than 1,000 funded non-government service providers in the sector to ensure the best outcomes for more than one million people in New South Wales with a disability and their carers in the next five-year phase of Stronger Together.

### **ELECTRICITY SUPPLY-DEMAND BALANCE**

**Dr JOHN KAYE:** My question is directed to the Treasurer. Is the Treasurer aware that the 2010 Statement of Opportunity issued by the Australian Energy Market Operator showed that the electricity supply-demand balance will be maintained in New South Wales until at least 2016-17? Is he also aware that in 2009 the forecast indicated an imbalance until 2015-16, in 2008 until 2014-15 and in 2007 until 2013-14? That is, is he aware that for four years running the prediction has been seven clear years into the future before there will be any supply-demand balance constraint? Will the Treasurer now admit that the Owen inquiry was fatally flawed and that the Keneally Government's plans for electricity privatisation and new baseload power stations are without sound justification?

**The Hon. ERIC ROOZENDAAL:** No.

**Dr JOHN KAYE:** I have a supplementary question.

**The PRESIDENT:** Order! Members cannot seek to ask a supplementary question seeking elucidation of a one-word answer.

**Dr JOHN KAYE:** I want to know what he was saying no to. I asked four questions and I want to clarify—

**The PRESIDENT:** Order! I will not allow a supplementary question that seeks to elucidate a one-word answer.

### **SUPPORTING OUR YOUNG PEOPLE PACKAGE**

**The Hon. SHAOQUETT MOSELMANE:** My question is directed to the Minister for Youth. Will the Minister update the House on how the New South Wales Government is addressing the needs of our young people through the Premier's youth package?

**The Hon. PETER PRIMROSE:** The Keneally Government is committed to helping the young people of New South Wales to reach their full potential. This Government supports young people with a range of policies and programs. For instance, in June this year the Premier released the Supporting our Young People package as part of the 2010-11 budget. The Government is investing more than \$200 million to provide young people in New South Wales with the skills and opportunities they need to succeed. This package of initiatives has been designed to help young people to engage in programs that address the challenges that may be preventing them from participating fully in the community.

The package includes: \$3.9 million for independent employment advisers to work with students who have dropped out of the school system to re-engage them in learning and to support them in getting a job; \$5.5 million for employment-ready training to support 2,000 unemployed young people to secure a job, including apprenticeships and traineeships; and \$2 million to support local community programs that engage young people and help to build social communication and leadership skills for the future. The \$2 million has been allocated as a boost to the Better Futures strategy. That is in addition to the \$3.5 million annual allocation. The Better Futures strategy, which was established in 2001, is a prevention and early intervention program that aims to improve outcomes for young people who have experienced a wide range of disadvantage. The 2009-10 Better Futures budget was \$3.9 million.

In 2009 funding was allocated to 53 new projects across the State and an additional 10 projects were still in operation from previous years. Projects are diverse and have been developed in response to local community need. They include music events staged by Regional Youth Support Services on the Central Coast to develop skills in planning, promoting and staging live music events. The Mid North Coast Regional Council for Social Development has held consultations with almost 300 young people to identify priorities and ways to address them. The Eurobodalla Youth Transport Project, which operates under the auspices of Eurobodalla Shire Council, has provided safe transport home for young people through the shire.

My department is reviewing the Better Futures strategy to ensure that it addresses current issues and priorities for children and young people. The review is expected to be completed by the end of this month. All projects operating in 2009-10 have been extended until June 2011 to allow the review to be completed and the recommendations to be considered. This additional allocation of \$2 million will support local community programs that engage young people in sports and cultural development activities and help to build social, communication and leadership skills.

Funding available to this enhancement to the Better Futures strategy is being advertised across New South Wales. Community organisations and local government authorities will be able to apply for up to \$50,000 to upgrade facilities, equipment and resources and also to develop new programs or to expand existing programs that encourage the engagement and participation of young people. Funding criteria and application guidelines outlining the details of the application process can be found on the Communities NSW website. Applications must be made online and will remain open until Friday 24 September. The Keneally Government is committed to supporting our young people and I encourage all eligible organisations to apply.

#### **POLITICAL LOBBYING**

**The Hon. JENNIFER GARDINER:** My question is addressed to the Minister for Planning, Infrastructure and Lands. Is the Minister aware of the recent comments made by his former ministerial colleague Reba Meagher, who quit her job as a lobbyist after two months, stating, "It's my strong view there needs to be a third party oversight of lobbying, whether that's the Department of Premier and Cabinet or ICAC"? Has the Department of Planning made a submission to the current Independent Commission Against Corruption inquiry into lobbying in New South Wales? If so, what is the department's position on this important matter, and does it accord with the views of his former ministerial colleague?

**The Hon. TONY KELLY:** I am not aware of any comments made by the former Minister. I am aware that some members have attended those hearings, but I am not privy to what they have said.

#### **HOSPITAL-ACQUIRED INFECTION CONTROL**

**Reverend the Hon. Dr GORDON MOYES:** My question is directed to the Attorney General, representing the Minister for Health. Is the Minister aware that the Wollongong Hospital is under infection control watch after an elderly dialysis patient tested positive to hepatitis C? Is the Minister aware that health authorities say it is likely the patient contracted the virus in Wollongong Hospital's renal unit? Is the Minister aware that the South Eastern Sydney and Illawarra Area Health Service has not explained the four-month gap between when the patient's blood was tested and when the results were acted upon? Will the Minister indicate what actions are being taken to prevent similar delays in future? Will the Minister indicate what infection control initiatives are being enacted in hospitals to ensure that outbreaks of this kind are recognised straightaway and contained and notification measures are taken so that patients, staff and visitors can be diligent in protecting themselves from such an outbreak?

**The Hon. JOHN HATZISTERGOS:** I will refer the matter to the Minister for Health.

*[Interruption]*

#### **TILLEGRA DAM**

**The Hon. ROBYN PARKER:** My question is directed to the Minister for Planning and Lands.

*[Interruption]*

**The PRESIDENT:** Order! There is an order to be followed for the asking of questions. The Opposition missed an opportunity to ask a question earlier; for that reason it is now being given the opportunity to ask a question.

**The Hon. ROBYN PARKER:** I ask the Minister whether he recalls that on 30 March 2010 the Minister for Planning responded to a question about omissions in the Tillegra Dam environment assessment report with the following statement:

If any additional information is received on the project prior to its determination by the Minister for Planning, the Department of Planning will carefully consider the need for further public exhibition in accordance with the requirements of the Environment Planning and Assessment Act 1979.

Has the Department of Planning reviewed the additional geotechnical report that was not included in the environmental assessment report? Has this additional information been included in the socioeconomic review conducted by the Department of Planning? Will the review be made available to the public?

**The Hon. TONY KELLY:** I thank the Hon. Robyn Parker for her question. The lower Hunter currently is the sixth-largest urban area in Australia and one of the State's major centres for economic activity. Strategic planning is targeting significant population growth for the lower Hunter and Central Coast regions. It is fundamental that a secure water supply be provided to existing and future communities in those regions—not just during average rainfall conditions but also in periods of extended or severe drought.

The Hunter Water Corporation has proposed construction of the Tillegra Dam to provide security of groundwater supply to the lower Hunter and Central Coast. As the Minister for Planning I am the approval authority for the project under part 3A of the Environmental Planning and Assessment Act 1979. The Tillegra Dam has been declared to be a critical infrastructure project in recognition of its role in the future growth of the lower Hunter and Central Coast.

Notwithstanding that, the project will be subject to a rigorous environmental assessment process, including full and transparent community engagement, before my decision is made. Currently the Department of Planning is undertaking its independent merit assessment of the project. At this stage it would be inappropriate for me to speculate on the outcomes of the assessment process. As part of the assessment of the project the department has engaged a number of independent consultants to provide expert advice. The expert reviews include consideration of the potential impact of the project on the hydrology of the Williams River, modelling of potential impacts on the Hunter estuary, and evaluation of justification for the project.

### COUNTRYLINK TRAIN REFURBISHMENT

**The Hon. EDDIE OBEID:** My question is addressed to the Minister for Transport. What action is the Government taking to provide comfortable travel for CountryLink customers?

**The Hon. JOHN ROBERTSON:** I thank the Hon. Eddie Obeid for his question and for his continuing interest in improving transport services for country New South Wales, unlike members opposite who, I would have thought, should have asked the question. CountryLink transports approximately 1.8 million customers every year to approximately 365 destinations in New South Wales, the Australian Capital Territory, Queensland and Victoria. The New South Wales Government takes very seriously its commitment to CountryLink passengers and is continually looking for ways in which to improve their travelling experience.

I am pleased to report that in addition to new state-of-the-art trains that have been ordered for New South Wales, the Government has established a series of programs to revitalise its existing fleet. The latest program to be completed is a \$27 million investment in refurbishing the Xplorer and Endeavour trains. The last of the 51 refurbished Xplorer and Endeavour carriages that rolled into service at the end of August look fantastic. Both train types received extensive refits, making customers' journeys more comfortable as well as making the trains more presentable. The Xplorers and Endeavours service routes require longer periods of travel, so it is important that the trains are modern and in good repair.

The upgrades of the Xplorers and Endeavours include newly refurbished seating, new flooring, new or refurbished toilets and a new coat of paint along with many other improvements. Other specific improvements for the 23 Xplorer cars and 28 Endeavour carriages include a revamped driver's cab with better air-conditioning and seats, new ceiling panelling and new floor covering, expanded luggage compartments, better air-conditioning for passengers, buffet upgrades including new menu boards, new food display units and new coffee machines, upgraded seats, new floor coverings and new curtains, upgraded toilet facilities, a fresh exterior coat of paint, and the repair of scratched windows with the application of anti-scratch window film so as to foil vandals.

The Government allocated an additional \$4.8 million to carry out mechanical and maintenance work while the cars were being refitted to make them more comfortable and presentable. The structural work will contribute to greater reliability and will assist in keeping our CountryLink trains moving. I am pleased that the refurbished cars are ready for reintroduction to the rail network. I am confident that for many years to come rail customers will enjoy the improvements. Refurbishment of the Endeavour cars is a 2010 customer charter commitment. I am pleased to report that the project is being delivered ahead of schedule.

In addition to revitalisation of our rolling stock, the Government is considering what else may improve transport services across regional areas. In recent months the Parliamentary Secretary Assisting the Minister for Transport, the Hon. Penny Sharpe, has consulted CountryLink stakeholders to determine how best to continue to meet the needs of country rail commuters. Her hard work is well recognised. Public meetings have been held in Young, Albury, Wagga Wagga, Taree, Grafton, Port Macquarie, Lismore, Bathurst, Orange, Dubbo, Tamworth and Broken Hill to encourage local communities to have their say. The community can also make submissions through the CountryLink website, by email, or by mail.

Passengers are encouraged to provide feedback on issues such as the frequency of services, service connectivity, facilities on trains and coaches, ticket availability, and ticket management during the journey. I understand that community submissions now are being considered, with a report due later this year. The Keneally Government will continue to work with country rail commuters to provide the best possible service and to keep our regional communities connected. That means revitalising our rolling stock, delivering services that meet customer demand, and continuing to consult with the communities who most rely on the services.

### HOUSING AND LAND SUPPLY

**Reverend the Hon. FRED NILE:** My question is addressed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. What will be the impact on the quantity of house building in New South Wales of the increase in council levies from \$20,000 to \$30,000 in certain greenfields growth areas? Does he propose to authorise any further increases that will affect potential homebuyers as a result of higher land prices?

**The Hon. TONY KELLY:** I thank Reverend the Hon. Fred Nile for his question. The policy of the Government remains appropriate.

**The Hon. Duncan Gay:** Which policy?

**The Hon. TONY KELLY:** The Deputy Leader of the Opposition should allow me to answer Reverend the Hon. Fred Nile's question without interruption. The policy remains appropriate. A number of councils had development levies of up to \$60,000 per block in various areas of the State that are not greenfields sites, and those costs were restricting the production of housing in New South Wales. Each year the State requires approximately 25,000 new housing commencements but was achieving only 14,000. The Government was forced to take action to create downward pressure on housing costs and increase the number of housing commencements. Despite that, as the Treasurer has stated, recent statistics indicate that New South Wales housing commencement rates are better than those of all other States.

When the change in the cap was announced the Premier stated that there may be some transitional issues that would have to be addressed. We have held a number of discussions. The department and I have conducted approximately 100 meetings over the past two months in an endeavour to ascertain the exact nature of the problems being experienced by individual councils. Brewarrina, Botany and Blacktown councils are not the same and they do not experience the same pressures. Therefore the Government has produced a revised package that makes slight adjustments to some greenfields sites.

Greenfields sites will be subject to a cap of \$30,000 as distinct from the cap of \$20,000. That will allow for increased costs associated with the purchase of land. Some councils spend up to 65 per cent of development costs on the purchase of land for drainage and other purposes that are not an issue in places such as Brewarrina or Botany, but certainly are an issue in greenfields sites of other councils. That was the first change.

The second change is that the Government was not prepared to impose upon councils a breakup between essential and non-essential works. That enabled approximately 140 of the 152 councils in the State to get on with processing applications. The question specifically relates to how many housing sites would be released as a result of the changes. I inform the House that approximately 2,000 lots will be able to be approved straightaway by councils, with probably another 19,000 being freed up over the next 12 months as a result of changes in the policy.

We are also working with councils on a number of other issues. The Treasurer also allocated up to \$50 million to go to those greenfield councils to help them get below the caps where they still have infrastructure costs over and above \$30,000, in particular. That assistance will be available over the next two years. We will also look at the new land and housing supply task force, and investigate the validity of some of the costs—for example, whether we need that much land set aside. Must councils be forced to buy that much land for drainage or are there some innovative ways of proceeding? This issue needed to be addressed. It had not been addressed by any previous government but we have taken the attitude that we must assist councils in order to get housing starts moving. We will conduct a thorough investigation to see whether we can introduce more reform by assisting those councils over the next few months to try to make it easier for them to progress housing starts.

### PORT MACQUARIE FORESHORE PROTECTION

**The Hon. MELINDA PAVEY:** My question without notice is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Does the Minister recall being tabled in the House a petition signed by 16,000 Port Macquarie residents calling for the protection of the Port Macquarie foreshore from overdevelopment? Is the Minister aware that the Port Macquarie Foreshore Protection Association has been seeking to meet with him on this issue? Prior to the Minister's visit to Port Macquarie early last month did the member for Port Macquarie seek to arrange a meeting between the Minister and the association? Why does the Minister continue to deny the association representation on the Foreshore Lands Advisory Group?

**The Hon. TONY KELLY:** I go regularly to Port Macquarie; it is a fantastic part of the State.

**The Hon. Greg Donnelly:** It was a National Party seat once.

**The Hon. TONY KELLY:** It was a National Party seat. It is a safe seat now and the area is very well represented by the local members. I think the last time I went to Port Macquarie—as I said, I go there quite regularly—I met with the local member, Peter Besseling, to discuss this very issue.

### BIOFUELS

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Lands. Will the Minister update the House on the progress of the biofuels industry?

**The Hon. TONY KELLY:** I am delighted to advise the House that New South Wales continues to lead the way in the use of biofuels. Indeed, to date New South Wales remains the only State to have a mandate for both ethanol and biodiesel. Biofuels make a lot of sense—not only are they good for the environment but they create jobs and new markets for farmers. The Biofuels Act 2007 increased the biofuel component of petrol to 4 per cent ethanol and 2 per cent for biodiesel from 1 January 2010. Because each of the companies has a different start point and different issues to manage, particularly with logistics, the phase-in for each company has been monitored and managed on an individual basis. In the April-June quarter of 2010, the State's average ethanol content was just under 3 per cent. I am advised that it has reached 3.2 per cent in the past month. That means that, as of today, more than 30 per cent of all petrol in the State contains renewable fuel. It also means that 3.2 per cent of the fuel that normally would have been imported from overseas is now produced in New South Wales, which creates jobs for the people in the State and uses farmers' products. We expect to reach an average of 4 per cent towards the end of this year, at which point E10 will overtake unleaded petrol and become the predominant fuel used in New South Wales.

Whilst these are impressive statistics—particularly given that the industry has grown from almost a standing start three years ago—further developments are already emerging in the market. I was recently joined by the member for Drummoyne, Angela D'Amore, to launch a new product called Bio E-Flex at a Caltex service station in Drummoyne. As reported in today's *Daily Telegraph*, the new fuel will be priced up to 20¢ a litre cheaper than conventional unleaded fuel. Bio E-Flex contains up to 85 per cent ethanol and will fuel the new flex-fuel Holdens that were launched yesterday. A high ethanol blend has been used in V8 Supercars racing for a number of seasons, so it is very pleasing to see Caltex and Holden bringing Bio E-Flex to mainstream motorists. This fantastic initiative means that by the end of next year new Holden cars will be flex-fuel vehicles, able to use anywhere between zero and 85 per cent ethanol. In fact, I think the *Daily Telegraph* pointed out this morning we will export 600 of those cars to Brazil this year.

Of course, changes of this size need the support of suitable facilities. So on 12 August, accompanied by the member for Auburn, Barbara Perry, I visited the Mobil-Caltex terminal at Silverwater that serves western

Sydney and surrounding regions. This terminal has been upgraded with storage for a million litres of ethanol and in-line blending facilities to enable unleaded petrol to be blended to E10. This new facility will enable Mobil, Caltex and Woolworths to accelerate their rollout of E10 in New South Wales. With biodiesel, the last quarter report indicates that the State's average biodiesel content is already 1 per cent. Biodiesel infrastructure, products and marketing strategies continue to evolve. The Shell-BP terminal at Parramatta is due shortly to commence blending biodiesel and a B5 diesel blend, which will then be available to 60 per cent of the State.

Through the initiatives of this Government and the efforts of the biofuels industry, petrol companies and stakeholder groups, we are making our petrol market as clean and sustainable as possible for the community of New South Wales. New South Wales is leading the biofuels revolution in Australia. I shall continue to keep members updated on the ongoing uptake of biofuels, the rollout of facilities and new biofuel vehicles and the key role being played by the Government in underpinning these new green fuels.

**The Hon. Duncan Gay:** What are you doing for fishermen?

**The Hon. TONY KELLY:** In relation to the comment by the Hon. Duncan Gay—

**The PRESIDENT:** Order! The Minister's time has expired.

**The Hon. TONY KELLY:** If the member wanted to ask me a supplementary question, I would tell him.

**The PRESIDENT:** Order! The Hon. Duncan Gay cannot ask a supplementary question; he did not ask the original question.

#### **COOGEE BAY HOTEL DEVELOPMENT**

**Reverend the Hon. Dr GORDON MOYES:** I ask the Hon. Tony Kelly, the Minister for Planning, possibly on behalf of the Minister for Local Government, is the Minister aware that the Coogee Bay Hotel has plans to develop a 12-storey building opposite the Coogee beachfront without any consultation with the community? Is the Minister aware that almost 16,000 people have opposed the development so as to preserve the unique charm and history of Coogee? Is the Minister aware that this proposal seeks to maximise floor space to drive a higher return on the available space? Will the Minister please indicate what actions are being taken to prevent this historic local village from being swallowed by a major project that could forever alter Coogee? Will the Minister indicate why the local community was not consulted on a matter that would so obviously adversely affect the community and the environment?

**The Hon. TONY KELLY:** A request has been received by the Department of Planning for the redevelopment of the Coogee Bay Hotel to be declared a major project. The redevelopment would comprise a range of residential, retail and hotel uses. The department is currently considering the request and is liaising with Randwick council. The department has already expressed concern about some elements of the proposal, in particular the height and scale of the proposal. I point out that the company already has development approval from the council, received some years ago, for some significant improvements. The department recently engaged the New South Wales Government Architect to provide an expert review of the proponent's proposal before making any decision regarding the request for declaration as a major project. The council will also be consulted during this review, as will the community.

#### **M5 EAST DUPLICATION**

**The Hon. MARIE FICARRA:** My question without notice is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Will the Minister explain to the residents of south-west and southern Sydney the reason for his Government's decision merely to conduct a feasibility study into private financing of the M5 East duplication instead of utilising the promised \$3.6 billion in Federal funding to construct the duplication as expediently as possible?

**The Hon. TONY KELLY:** It is not my job as Minister for Planning to investigate financing arrangements.

#### **LANDFILL**

**The Hon. LYNDA VOLTZ:** My question is addressed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Will the Minister update members on what the Government is doing to address the demand for landfill capacity in the Sydney region?

**The Hon. TONY KELLY:** Earlier this year the New South Wales Government released a report by independent waste expert Tony Wright into landfill capacity and demand for Sydney. Commissioned by the Department of Planning, the review was to provide an analysis of Sydney's landfill demand and capacity to 2024. It was a timely report. There are rapid technological and market changes within the waste industry, including a move away from traditional landfilling. Waste material is increasingly treated as a resource that can be utilised and turned into products such as electricity, paper, plastics and compost. This means that while we need a more sophisticated approach to waste management, landfill remains important, and the Wright report finds that there is ample landfill capacity available for Sydney waste disposal extending for the next 20 years. However, it is crucial that we reduce our dependence on landfills by improving the viability of recovering resources from the waste stream.

Significantly, Mr Wright also found that despite the increase in waste generation as a result of factors such as population growth, waste disposal to landfill remained reasonably constant over the past decade at just under two million tonnes per annum, principally due to the significant increase in such resource recovery, which is now at a record 42 per cent of the waste stream. This is good news. It shows that initiatives such as kerbside recycling are helping to keep our landfill down.

Mr Wright made two recommendations: first, to remove the existing caps on the level of annual waste flowing into landfills—he considers that these are an artificial way of dealing with Sydney's landfill needs—and, secondly, to maintain the "justifiable demand" criteria used to assess new landfill development applications to ensure that the waste market is not flooded with an excess of new landfill sites. In his report Mr Wright found that the New South Wales Government's waste and environment levy, rather than the existing caps, should be used to drive the reuse and recycling of waste and reduce landfilling. In response to the Wright recommendations report, the New South Wales Government will, in the years to 2014, phase out the policy of caps on landfill space to drive waste re-use and recycling, rather than immediately remove them all together.

Phasing out the caps will stop the market being flooded immediately with landfill space and will allow transition to the use of the levy as the key policy driver. I am pleased to advise the House that by 2014 under the levy it will be cheaper to recycle and re-use waste in a resource recovery centre rather than sending it to landfills. In response to the second recommendation, the Government has already published new criteria for assessing development applications for landfill facilities—criteria that ensure that a suitable level of resource recovery happens to the waste before landfilling and that the best-practice landfill design is in place, such as gas capture for energy production.

In his report, Mr Wright said that Sydney—even under the most optimistic resource recovery scenario—would continue to need some 1.3 million tonnes of landfill space each year by the year 2024. We need to make sure that we can identify and manage appropriate landfill space to meet this demand. So the New South Wales Government has committed to ensuring that there is 20 to 30 years of landfill capacity available at any one time. The Government has committed to smart waste management, recycling and re-use as much as possible from the waste stream and to managing the waste that cannot be recycled or re-used to meet contemporary environmental standards.

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

#### **POLITICAL LOBBYING**

**The Hon. TONY KELLY:** I was asked a question earlier today by the Hon. Jenny Gardiner regarding a lobbying inquiry by the Independent Commission Against Corruption. I am advised that the Department of Planning has confirmed that it did not make a lobbying submission and that in fact the Department of Premier and Cabinet did. As I pointed out, a staff member, Sam Haddad, attended the inquiry.

#### **DUNTRIM HOUSE, DARLING POINT**

**The Hon. TONY KELLY:** Yesterday I was asked a question in relation to Duntrim House, Darling Point. I am advised that the heritage branch is aware of the site. It is listed on the S170 Heritage and Conservation Register under the Heritage Act 1977, prepared by the Department of Health and submitted to the Heritage Council. Under the Heritage Act, if an item that is on the S170 register is transferred from government ownership, removed from the register, demolished or had any major work done on it, the Heritage Council must

be given 14 days notice. I am advised that no notice has been provided. Each government agency is responsible for ensuring that the items entered on the register under section 170 are maintained with due diligence in accordance with State-owned heritage management principles.

### **ABORIGINAL JUVENILES IN CUSTODY**

**The Hon. TONY KELLY:** Yesterday the Hon. Fred Nile asked about the current percentage of Aboriginal juveniles in custody. Last year the proportion of young people in detention who identified as Aboriginal or Torres Strait Islander was 49.8 per cent—a figure that we all agree is too high, given that indigenous young people aged 10 to 18 make up only 3 per cent of the population of New South Wales. To ensure a coordinated approach to addressing over-representation of Aboriginal young people in the juvenile justice system, Juvenile Justice has developed an Aboriginal strategic plan.

Initiatives implemented under the Aboriginal strategic plan include active recruitment and retention of Aboriginal staff, as well as providing non-indigenous staff with appropriate cultural knowledge to work effectively with Aboriginal people, programs and interventions to reduce the risk, severity and frequency of reoffending by Aboriginal young men and women, supporting Aboriginal young people while they are on bail to help them reintegrate into the community and extending the referral of young Aboriginal people to youth justice conferencing wherever it is appropriate, and ensuring that Juvenile Justice community office staff provide support to local Aboriginal communities and agencies as they encourage young Aboriginals to take responsibility for their own lives and steer them away from a life of crime.

Juvenile Justice continues to be the leading employer of Aboriginal people in New South Wales. More than 7 per cent of the total workforce identifies as Aboriginal and Torres Strait Islander, in positions ranging from administrative, managerial or front-line services. I might add that yesterday morning the Minister for Juvenile Justice, Barbara Perry, gave an opening address at the Aboriginal staff conference, which is an annual meeting of more than 70 indigenous Juvenile Justice workers. Employing indigenous Juvenile Justice workers is an important strategy in providing culturally tailored rehabilitation programs for young people in custody and in the community.

### **DEATH IN CUSTODY OF VERONICA BAXTER**

**The Hon. JOHN HATZISTERGOS:** Yesterday the Hon. Sylvia Hale asked me a question without notice about coronial proceedings concerning the death of Veronica Baxter. The member's question erroneously stated that when she had previously asked me about this issue, on 10 June this year, I had:

... replied that the police brief was yet to be finalised.

I had in fact said the following—and I quote from my answer as recorded in the *Hansard*:

In the Baxter matter the brief is yet to be finalised.

It is important to recognise that in conducting these sorts of investigations Coroners request and consider evidence from a range of different sources, not just the police. In this particular matter I am advised that the police evidence was received by the Coroner in December 2009. However, after reading all the material the Deputy State Coroner, Magistrate MacMahon, who has been allocated the matter, requested further information. I am told that a report has since been received and needs to be analysed by the Coroner and the advocate assisting the Coroner. I understand the matter is next listed for mention on 1 October 2010, when a date for the inquest is anticipated to be set. I am also advised that the progress of this matter is consistent with normal time frames expected for the hearing of inquests into deaths in custody.

As I am sure the member would appreciate, these types of matters are always complex. It is of the utmost importance that Coroners get them right. It is also essential that all the material and evidence is finalised before the inquest so as to allow the Coroner to make a finding and, if necessary, appropriate recommendations that might assist in preventing similar deaths in the future within prisons. I am sure the member would also appreciate that as a member of the Executive Government it is not appropriate for me to direct independent judicial officers about the manner in which they should conduct their investigations. I trust the member shares my high regard for the separation of powers in this respect.

**Questions without notice concluded.**

**INDEPENDENT COMMISSION AGAINST CORRUPTION****Report**

**The President** tabled, pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Investigation into the Misuse of Resources by a NSW Maritime Legal Services Branch Officer", dated September 2010, received and authorised to be made public this day.

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

*[The President left the chair at 1.09 p.m. The House resumed at 2.45 p.m.]*

**GENERAL PURPOSE STANDING COMMITTEE NO. 4****Report: Badgerys Creek Land Dealings and Planning Decisions—Second Report**

**Debate resumed from 9 June 2010.**

**The Hon. JENNIFER GARDINER** [2.45 p.m.]: I made some comments previously, and I will conclude with some notes on the second report into Badgerys Creek land dealings and planning decisions. First, I take this opportunity to place on record my appreciation for the work on General Purpose Standing Committee No. 4 of the late Hon. Roy Smith, who was a member of the committee. I join with other members who have expressed their condolences to his family, as I did at the Rooty Hill function, but I also place on record my appreciation and the appreciation of other committee members for his work on General Purpose Standing Committee No. 4.

In relation to the Badgerys Creek inquiry, on which Roy Smith served, I note that the Government has responded to our recommendations. I note also that since then the Independent Commission Against Corruption has been conducting an inquiry into lobbying in New South Wales and into the systemic issues that may arise from the practices and regulation, or lack thereof, of lobbyists in this State. We look forward to hearing the recommendations from the Independent Commission Against Corruption.

I note that, as ascertained in question time today, the Department of Planning has not made a submission to the Independent Commission Against Corruption inquiry but the Department of Premier and Cabinet has made a submission. We look forward to seeing what the commission recommends, and whether it concurs with the views of the former Minister for Health—and, for a short period in her post-parliamentary life, lobbyist—the Hon. Reba Meagher. As a parting message from her lobbying career, brief as it was, she said she believed an independent third party should oversee lobbying in this State—perhaps the Independent Commission Against Corruption or the Department of Premier and Cabinet. It will be interesting to see whether the Independent Commission Against Corruption takes that on board.

With those remarks, I again thank all the staff and members of the committee for their assistance with the memorable two inquiries into the Badgerys Creek land dealings and planning decisions. I look forward to the Independent Commission Against Corruption recommendations on lobbying in general.

**The Hon. GREG PEARCE** [2.50 p.m.]: I shall speak briefly on the second report of the Badgerys Creek land dealings and planning decisions inquiry. At the outset, I remind the House that this inquiry came about following the murder of the criminal Mr McGurk. Notwithstanding his disreputable standing in the community, Mr McGurk made broad allegations that the New South Wales Labor Government was in some way involved in corrupt behaviour, and specifically that an unnamed Minister or others had engaged in corrupt behaviour. The story was embellished when the role of the former Australian Labor Party office-bearer and senator, Graham Richardson, became known to the public. The outstanding and regrettable outcome of all that was that when the media and the New South Wales community heard that Richardson was involved and that the New South Wales Labor Party was being implicated, they were prepared to believe it.

After 15 years of this rotten Labor Government the community of New South Wales has so little confidence in this Government that even when a standover criminal makes an allegation, straightaway the community leaps to the conclusion that this Government is involved, its Ministers are corrupt and it is sleazy. That is the terrible state in which we find ourselves in New South Wales. This report came about because of an extension of that sort of behaviour. Mr Richardson appeared before the committee in an incredibly arrogant way.

**The Hon. Trevor Khan:** Hubris!

**The Hon. GREG PEARCE:** He showed extraordinary hubris, and arrogance beyond any expectation. He refused to cooperate with the committee, to accept the authority of the committee and to give evidence to it. Ultimately there was no purpose in what he did. It was just a crass example of that sort of behaviour that comes from so many New South Wales Australian Labor Party representatives. The committee was forced to delay concluding its deliberations and an essentially wasteful process had to take place. The time of the committee was wasted, as well as the time and resources of the Parliament and the committee secretariat, while we went through a charade, with Mr Richardson disgracing himself, to get from him even the most basic level of respect. One would have thought that a former senator would have a skerrick of respect for a parliamentary committee and its processes but he did not. He behaved in a way that would cause all of those opposite to hang their heads in shame.

I put on record my gratitude to the chair of the committee and to all of the participants in the committee. I make an exception for the Labor members of the committee, who did not exhibit the same behaviour as Mr Richardson but, unfortunately, they are all tarred with the same brush as far as the community is concerned. I thank the committee staff who, as always, did a very good job and in this case their time was wasted for no particularly good reason.

I also pay my own tribute to the late the Hon. Roy Smith and express my condolences to his family. Roy was a member of the committee. Although I did not know him very well, he always struck me as a man of dignity. He was always honest and straight shooting in his dealings with us. Certainly the time I had to spend with him was enjoyable. He is a great loss.

**The Hon. TREVOR KHAN** [2.56 p.m.]: In my view this was an important inquiry and its importance was demonstrated by how the proceedings developed over time. One remembers that former senator Graham Richardson gave evidence on one occasion and was then invited to provide answers to questions on notice. As we now know, he chose, for whatever reason, not to provide the answers to those questions, and perhaps feeling in some way superior to the committee and to those members of the committee, chose that the way to proceed was to come back for another go. One also remembers the timing of his appearance on the second go, somewhat coincidental only by a couple of weeks with the change, yet again, in the Premier of New South Wales, Nathan Rees, having been so effectively stabbed in the back to be replaced by Kristina Keneally, at least for the current time.

**The Hon. Jennifer Gardiner:** They were only practising.

**The Hon. TREVOR KHAN:** "Only practising" is true. One wonders what Joe Tripodi is doing even today in the light of events that have unravelled. We saw the real reason why this inquiry was so important. We saw demonstrated in evidence before the committee that the good Graham Richardson—"Mr Fix It"—had, in fact, not only been a lobbyist dealing with various members of the planning department but also maintained his tentacles well and truly in New South Wales Labor. During the exercise of the spearing of Nathan Rees he had been prowling the corridors of this very building, meeting with the likes of Eddie Obeid and Joe Tripodi and no doubt all the other spidery members of the Right of New South Wales Labor politics, as in that process he assisted in the undoing of Nathan Rees.

Therefore we have a lobbyist who is at the same time very much a political player—a creeper and crawler through the corridors of power who is, at every opportunity, taking the chance of putting the people that he knows he can control into positions of power. That problem was well and truly exposed by this Committee: that the likes of the Obeids, the Tripodis and the Richardsons, the creepy members of the Labor right, are dispatching premiers as and when they see the need but also, in the process, they are meeting with various departmental officials.

The people of New South Wales can justifiably be worried that not only do we have lobbyists meeting for cups of coffee with senior members of the Department of Planning, but at the same time those lobbyists—those same people—are having cups of coffee as they plot the demise of members of Parliament and premiers of this State. It is indeed a sorry sight. One would have to say his preparedness to, in a sense, admit all of this before the inquiry with a laissez faire attitude of, "Well, what does it really matter", is a real indication of how corrupt politics in New South Wales has become and how that has affected even senior levels of the public service in this State.

This inquiry was an important inquiry. It discovered just how extensive the problem is in New South Wales and, if it were not for the able and subtle chairmanship of the Hon. Jennifer Gardiner, much of this would not have been exposed. I thank the House for the inquiry having had the opportunity to expose the level of rankness that now infects the New South Wales branch of the Australian Labor Party, and I thank members, particularly on the Coalition side and crossbenches, for their cooperation. One can observe that the Labor members for most of the time sat like stunned mullets really wondering what the heck they were doing there, not having the subtlety to work out what their party has become—a rank corpse just waiting to be dispatched in March next year.

**Reverend the Hon. Dr GORDON MOYES** [3.02 p.m.]: I wish to address, on behalf of Family First, the recommendations in the Badgerys Creek report produced by the General Purpose Standing Committee No. 4 in November 2009 and to comment on the second report of February 2010. This inquiry was held for a number of reasons, one of the most important reason being the many allegations over the years that property developers and their representatives, such as professional lobbyists, were exerting a great deal of influence on the planning decisions of the State, either by having ease of access to appropriate governmental officials, including Ministers, or through political donations.

A lack of public confidence in the New South Wales planning system was evident as a number of the submission authors said that those processes either appeared to be corrupt, are actually corrupt, or at the very least have the potential to be corrupt, and they fear that donations by developers would inevitably lead to bribery, fraud and preferential treatment. It seems to have become clear through the process of the inquiry that better approaches are needed to ensure transparency and integrity in the decision-making process around all planning issues.

Reading through some of the submissions it became obvious that regulations needed to be set in place to formalise and record all contacts between key stakeholders because one deeply disturbing thing that came to light was that there were either very lax or non-existent protocols in place regarding meetings between developers, lobbyists, departmental officers and even Ministers of the Crown. That will be remedied if the recommendations made by the committee are enacted. Although this inquiry specifically examined the land dealings of the Badgerys Creek area, the committee's recommendations will have impact on, and significance for, the planning framework across the entire State.

A number of recommendations were made, which I will review briefly. Recommendation 1 was that, upon the tabling of the report, the New South Wales Government should respond quickly to any recommendations made. Recommendation 2 was that the Government ascertain that the planning framework be amended to incorporate principles for guiding the integration of planning decision making with infrastructure planning and economic development priorities. There has been a great deal of press speculation over recent years about the lack of integration between planning decision making and infrastructure planning.

Recommendation 3 was that the Minister for Planning establish protocols to be applied to all meetings between departmental officers with development proponents and/or their representatives. It was advised that, as a minimum, meeting protocols should contain guidelines regarding venues, properly recorded minutes and the requirement for the third party presence of at least two departmental officers. There has been so much press speculation on this that it is obvious Recommendation 3 must be implemented. Recommendation 4 was that the Minister for Planning should establish record-keeping guidelines to be applied to all telephone conversations between departmental officers and development proponents and/or their representatives.

Recommendation 5 was that the Minister for Planning ensure that the Department of Planning's procurement procedures are publicly available and that when there are circumstances under which it is justifiable that procurement procedures are not adhered to, these should be made public. Disclosures relating to procurements and consultancies should also appear in the Department of Planning's annual report. Obviously this is to make for a transparent interaction. Recommendation 6 was that the Minister for Planning ensures that development proponents are provided with regular and timely updates on the progress of their proposals.

Recommendation 7 was that the Premier strengthen the NSW Lobbyist Code of Conduct to require that each Minister be informed at regular intervals of contact between government representatives and registered lobbyists. We can no longer have a situation where failure to know is regarded as being acceptable. Recommendation 8 was that the Premier strengthen the NSW Lobbyist Code of Conduct by publishing a report on the Internet at regular intervals detailing contact between government representatives and registered lobbyists. The report should include the name of the lobbyist, the date of contact, the meeting attendees and the issues discussed.

Recommendation 9 was that the Premier strengthen the NSW Lobbyist Code of Conduct by establishing protocols to be applied to all meetings. Recommendation 10 was that the Premier direct the Minister for Planning, in developing a new NSW Lobbyist Code of Conduct, to review lobbyist codes of conduct in other Australian jurisdictions. Recommendation 11 was that the Premier adopt the model for funding of the New South Wales Electoral Scheme proposed by the New South Wales Legislative Council Select Committee on Electoral and Political Party Funding, and implement the committee's recommendations in full.

I have detailed the recommendations for the sake of those who read *Hansard* and other publications to indicate that they are fundamental recommendations that should have applied when lobbyists were first accredited. The key provisions of the model given by the Legislative Council Select Committee on Electoral and Political Party Funding are that we should ban political donations by corporations and other organisations, cap individual donations and election spending, make disclosure of donations and election spending more timely and transparent, and introduce greater policing of the electoral funding scheme and tougher penalties for non-compliance.

I agree with the committee's report that all of these reforms are needed on an urgent basis, but of course major parties—even the Greens who have raised these matters on many occasions—have been embarrassed by the way their own Federal electoral system has recently been funded by all sorts of third parties and other funding bodies. The stricter regulation of professional lobbyists and changes to the electoral funding system will contribute to public confidence. The Committee also supports the reform of the State planning system to become more transparent, accountable, effective, and efficient. Members of the State Council of Family First have indicated their concerns on all of these matters and they support the need for reform of the State planning system.

The Committee's second report of February 2010 has been tabled, and previous speakers have indicated their opinion of the refusal of the professional lobbyist Graham Richardson, a former senator, to answer the questions on notice expected of him within a given deadline, and his subsequent attendance in person for further questioning and his attitude of superiority in those meetings. It also reports on the finding by the Independent Committee Against Corruption that Mr Medich had falsely overstated his influence with the Government and misrepresented his actions in regards to bribing of others, and that Mr McGurk's claim that he could bring down the Government with material he had recorded was nonsense.

I applaud the committee members for the time and effort they put into the inquiry and the secretariat for their guidance and support of the committee. The issues involved in planning decisions, lobbyists, and the influence over government when it comes to planning are fundamental, and I hope the Government will accept and implement all recommendations.

**The Hon. JENNIFER GARDINER** [3.10 p.m.], in reply: I thank all members for their contributions to the debate. In particular, I thank the Hon. Gordon Moyes for his contribution, noting his interest in the inquiry's report even though he was not directly involved in it. I particularly thank him for drawing attention to the question of political donations. Here we are back in the Parliament for the final session before a general election and we still do not have a draft exposure bill reforming donations disclosure laws. We still do not have the capping of donations and campaign expenditure as was recommended by two committees, one of which the Hon. Gordon Moyes referred to, the select committee of this House that reported in the year before last and the more recent Joint Standing Committee on Electoral Matters, which reported in March this year. That committee recommended there should be a draft exposure bill, anticipating that that would have occurred during the winter break. But we still have not seen a draft bill, let alone the actual bill.

The Government is well and truly behind schedule on that matter, as was the Federal Government, because most people believe that ideally there should be national uniform laws. The Rudd Government failed to implement such laws in its first, and possibly last, term of government and now that is an agenda item for the negotiations with crossbenchers in relation to the formation of a new government in Canberra. These are very important issues, which address the question of the influence of lobbyists and others on Ministers and departments, and in this case were very relevant to the Department of Planning. I thank all members for their contributions and look forward to the next exciting report from General Purpose Standing Committee No. 4.

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

**Motion agreed to.**

**STANDING COMMITTEE ON SOCIAL ISSUES****Report: Substitute Decision-making for People Lacking Capacity****Debate resumed from 25 February 2010.**

**The Hon. IAN WEST** [3.13 p.m.]: I am pleased to speak to the report of the Standing Committee on Social Issues on Substitute Decision-making for People Lacking Capacity. The committee received 44 submissions and six supplementary submissions. It held four days of public hearings with 41 witnesses, including the New South Wales Trustee and Guardian, the Public Guardian, representatives from peak bodies and advocacy groups in the disability sector, academics, the current chair of the United Nations Committee on the Rights of Persons with Disabilities, and representatives from jurisdictions as far flung as Alberta, Canada.

I thank all those who participated in this inquiry by making submissions and presenting oral evidence. Their experience and expertise greatly assisted the committee in addressing the terms of reference. I thank my fellow committee members for their considered and collaborative approach to this challenging inquiry and the committee secretariat for their valuable contribution in managing the inquiry process and producing this report.

The terms of reference for the inquiry asked the committee to inquire into provisions for substitute decision-making, and in particular whether any New South Wales legislation required amendment to make better provision for the management of estates of people incapable of managing their affairs, and the guardianship of people with disabilities. In brief, the committee's recommendations seek to:

improve New South Wales legislation's harmony with current best practice and the current dominant paradigm in relation to people with disabilities,

improve safeguards and monitoring to support substitute decision-makers and protect people under substitute decision-making orders from abuse and mismanagement, and

extend the reach of guardianship services in New South Wales through a community guardianship scheme and establishing an office of the Public Advocate.

I will say more about these recommendations in due course, but first a word about the context in which this inquiry took place. Demand for substitute decision-making arrangements will increase dramatically in the coming decades. The committee heard that in 2008 there were 227,000 people in Australia with dementia. By 2050 that number is estimated to increase by 330 per cent. In addition to people with dementia, others who access provisions for substitute decision-making include people with mental illness, intellectual disability, and acquired brain injury. These groups include some of society's most vulnerable members.

Substitute decision-making lies at the intersection of two competing duties of government towards vulnerable people—to respect their autonomy and to protect them from abuse. Some encroachment on the freedom of vulnerable individuals is inevitable. Encroach too far and we prevent a person from fully exercising their capacity. Encroach too little and we leave them open to abuse from others and their own mismanagement. At either extreme, the Government fails to act in the person's best interests. In seeking to strike this delicate balance, guidance can be found in the United Nations Convention on the Rights of Persons with Disabilities. The principles underpinning the convention that are relevant to the committee's inquiry are a focus on capacity, not incapacity; the presumption of capacity; the principle of least restriction; and the promotion of assisted decision-making. The committee endorses these four important principles and has sought to apply them in the recommendations in its report.

There has been a shift in focus to capacity rather than incapacity, ability rather than disability, and rights rather than protection; in short, a focus on what people can do, not what they cannot do. This is not merely terminology or political correctness. This focus is fundamental to the United Nations convention. It directly supports the principle of least restriction and serves to break the nexus between intellectual disability and incapacity, when a declaration of incapacity follows from the mere fact a person has an intellectual disability.

This leads me to another important point with regard to capacity that was impressed upon the committee throughout the inquiry: capacity varies from one area to another and from one time to another. For example, a person may be able to manage their day-to-day financial affairs but not larger-scale affairs, such as buying and selling real estate, or they may lack decision-making capacity during periods of stress or recovery from illness but retain it at other times—very much like any other person in the community.

Importantly, decision-making capacity can improve over time in response to treatment and education, or can diminish as a consequence of the natural course of disease such as dementia. Because capacity varies, orders and the frequency with which they are reviewed should be tailored to specific areas of incapacity to determine whether they remain necessary or appropriate. To maintain focus on capacity, we must have a clear and common understanding of what capacity means and ascertain the definition of "capacity".

Although New South Wales legislation refers to capacity generally—for example, in the context of whether people are capable of managing their own affairs—there is no legislative definition of "capacity". Instead we rely on a common law definition. The committee learned of deficiencies in this state of affairs and has recommended development of a legislative definition that acknowledges that capacity varies from domain to domain and from time to time and that ensures a person is not considered incapable of making a particular decision simply on the basis of having a disability.

According to the presumption of capacity, a person should be presumed to have capacity until otherwise is demonstrated. Our starting point must be that the person does not require a substitute decision maker. We should move from that position only when there is evidence to the contrary and only to the extent suggested by the evidence. The committee endorses the principle of the presumption of capacity and has recommended that New South Wales legislation be amended to require that capacity be presumed in all circumstances in which the need for a substitute decision-making order is being considered.

A focus on capacity and the presumption of capacity clearly supports the principle of least restriction whereby any substitute decision-making intervention should restrict the autonomy of a person as little as possible. There should be broad consideration of the need for an order and whether an order is in the best interests of an individual. The three tests—capacity, need and best interests—should be applied consistently. Accordingly the committee has recommended that the New South Wales Trustee and Guardian Act 2009 and the Guardianship Act 1987 be amended to ensure that the various bodies involved in making substitute decision-making orders consider those three factors each time an order or continuation of an order is considered.

The concept that draws together the focus on capacity, the presumption of capacity and the principle of least restriction is the concept of assisted decision-making whereby a person is assisted to make his or her own decisions rather than the right to make a decision being transferred to someone else, as occurs under substitute decision-making. While individual decision-making capacity lies along a spectrum, formal interventions are available to courts and tribunals but have tended to be all or nothing in nature. The committee believes that a spectrum of responses to match the spectrum of capacity is required. The committee also believes that assisted decision-making arrangements fill the gap between informal arrangements, such as support from friends and family, and substitute decision-making orders.

A key issue associated with assisted decision-making is defining the limits of the assisting decision-maker in supporting a person's wishes. The assisting decision-maker need not agree with the assisted person's decisions in line with the generally accepted proposition that a person has the right to make a mistake. Some common sense limits already exist, such as that we may not assist a person, regardless of his or her decision-making capacity, to make a decision that will result in physical harm to that person, harm to a third party, or the commission of a criminal act. However, there is still work to be done on clarifying the point at which the assisting decision-maker's responsibility to prevent harm and disadvantage overrides his or her responsibility to assist.

Notwithstanding that further work, the committee recommends that New South Wales legislation explicitly support the principle of assisted decision-making and that the Government consider legislating for assisted decision-making instruments to provide courts and tribunals with the opportunity to make formal assisted decision-making orders and to set out the parameters within which an assisted decision-maker functions. Assisted decision-making is not intended to replace substitute decision-making. Of course, there will still be cases when substitute decision-making is the appropriate arrangement and in the best interests of the person concerned.

I now turn to safeguards and monitoring in relation to substitute decision-making. People who are subject to substitute decision-making orders must be protected from abuse, mismanagement and unnecessary restriction. The New South Wales Trustee and Guardian, in addition to directly managing clients, oversees private financial managers who are appointed under financial management orders. Private managers generally are required to lodge accounts for review annually, at which time the New South Wales Trustee and Guardian checks whether the agreed management plan is being implemented and whether there are any problems with the

order. That provides the New South Wales Trustee and Guardian with an opportunity to give information and guidance to private managers when necessary or to take action when there are serious concerns about mismanagement.

The committee recommended that the Government consider amending legislation to give the New South Wales Trustee and Guardian discretion in varying the reporting period for private managers, reducing reporting requirements for managers who have demonstrated satisfactory performance, and imposing more frequent reporting requirements on managers whose performance is unsatisfactory. The procedures for reviewing substitute decision-making orders are another important aspect of safeguarding people who are subject to orders. While guardianship orders must be limited as to time, financial management orders may be indefinite, although in practice they are often reviewed on the motion of the relevant tribunal, the person who is subject to the order or another interested party.

Several participants in the committee's inquiry asked the committee to recommend an automatic review of substitute decision-making orders as frequently as annually. Against that proposal two factors must be weighed: firstly, review hearings can be stressful for some people and may be unnecessary in cases in which a permanent or deteriorating disability is present; and, secondly, review hearings require the resources of tribunals and bodies, such as the New South Wales Trustee and Guardian and the Public Guardian, that must prepare reports and provide other information. It is important for further information to be obtained about the resource implications of automatically reviewing all substitute decision-making orders to ensure, if that course of action is taken, that relevant bodies are resourced adequately.

Subject to those two factors, the committee recommended that the Government consider automatic review of orders. Demand for such decision-making certainly will increase in future decades. The committee's recommendations seek to implement underpinning principles while ensuring at the same time that State bodies continue to act decisively. I commend the report to the House.

**Reverend the Hon. Dr GORDON MOYES** [3.28 p.m.]: On behalf of the Family First Party, I join in debate on report No. 43 of the Standing Committee on Social Issues, entitled "Substitute decision-making for people lacking capacity". The subject matter of the report is of keen interest to me through my whole-of-life commitment to people who lack capacity to make adequate decisions concerning themselves, their families and perhaps their estates and valuables. Although I was not a member of the committee, on a couple of occasions I looked in on the committee's work. I congratulate the committee on its report.

The inquiry was established to assess the provision of substitute decision-making in New South Wales for people who lack capacity and particularly to assess whether any New South Wales legislation requires amendment to better make provision for the management of estates of people who are incapable of managing their affairs and for the guardianship of people who have disabilities.

The committee focussed its attention on the New South Wales Trustee and Guardian Act 2009 and the Guardianship Act 1987, under the provisions of which the Guardianship Tribunal and Mental Health Review Tribunal makes financial and guardianship management orders. It falls then to the New South Wales Trustee and Guardian, the Public Guardian and private managers and guardians to implement those orders.

Public hearings were held in September and November of 2009 and the committee received 44 submissions from community and important organisational stakeholders, including the Council on the Ageing, the Coalition for Appropriate Supported Accommodation for People with Disabilities, Alzheimer's Australia, the Guardianship Tribunal, Mission Australia, and many other significant bodies. Each of the organisations had a well-established and specific expertise and contributed important insight to the exceedingly complex issues involved.

A major factor facing us is that the ageing of the population means an increase in the number of people who will develop various dementias. In 2008 it was estimated that a quarter of a million people across Australia had dementia. This number is expected to increase over the next few decades by an estimated 330 per cent as a result of the bubble in demographics in the postwar baby boom period and the fact that good medication and medical oversight mean that people are living much longer.

In addition to people with dementia, many people in our community have developmental and intellectual disabilities, some have acquired brain injury and others suffer from mental illness. All of these conditions make thousands of people living in our community vulnerable not only to their own lack of clear thinking but also at times to the exploitative behaviour of others.

Many small and large systemic injustices and anomalies of which agencies are aware were brought to the attention of the inquiry with great concern and compassion by people whose work and purpose is to assist this population. Great emphasis was placed on the need for clear financial accounting in boarding houses that provide accommodation for this population to ensure that owners do not hold back bank books of residents or receive payments on behalf of residents without proof that such money was used as was intended, for example, to purchase warm winter clothing for residents. In an earlier life this was a constant problem for me and I battled with managers of boarding houses for the correct financial accounting of pensions, bank books and specialised payments given to some of the disabled people with whom I worked in the community.

Because psychiatric, intellectual or physical injury-based disability frequently renders people incapable of making appropriate choices and decisions, some of the more fortunate have individual advocacy provided by organisations such as People with Disabilities. However, most do not. The committee strongly felt that where there was no family contact or support, and no public advocate, any person who was unable to reason properly should be referred to the Guardianship Tribunal for a hearing to determine whether he or she needed a public guardian to be appointed to ensure safety and appropriate care. It was expressed by some, however, that in light of the fact that the New South Wales Trustee and Guardian is already overstretched, increasing its responsibility for the demographic under consideration may be much more than it could actually achieve. Its current inadequate funding results in many complaints by clients who felt they deserved better.

I add a personal comment about a man who lives on the Central Coast of New South Wales. I became his personal advocate after I was made aware that his entire estate had been taken over by people who had illegally and improperly come into his support network. He suffers from Asperger's syndrome, which is on the autism spectrum. He has rung me daily for the past five years to talk with either myself or my wife to help him make decisions. This is part of his disability: he cannot make decisions. He has no family members and has no-one else who can assist him, even with essential daily decision-making.

Of course, I am always willing to throw him back on his own resources and make him search for himself. For example, only yesterday he rang to ask me to ring him on his mobile phone because he could not find where he put it. My response to that request was, "I am not going to ring you on your mobile to help you find it. You have to look for it." He rang me back later to say that he had found it; he had put something on top of it. There is a delicate balance between actually helping a person who cannot make decisions and helping a person to develop his or her own skill and ability to make decisions.

In my years as superintendent of Wesley Mission, which provides many services to vulnerable members of the community, I observed society evolve in its understanding and approach to these issues of incapacity and protection. I was pleased to note that the principles that were endorsed by the inquiry conducted by the committee were those demonstrated in the United Nations Convention on the Rights of Persons with Disabilities—namely, the presumption of capacity rather than incapacity; the promotion of assisted decision-making instead of substitute decision-making; and the least restriction on the rights and freedom of individuals to guide their own destinies.

The 35 comprehensive recommendations in this report emphasise safeguards for people under substitute decision-making orders by requiring regular review of the need for such orders, appropriate monitoring, support for managers and guardians and appropriate guidelines in regard to intrusive personal interventions.

One of the major recommendations of the New South Wales Government is to enact legislation that would seek to establish a definition of "capacity" applicable to all State legislation relating to people lacking capacity. This would strive to take into account the fact that "capacity" is fluid, can vary from time to time and from one context to another. "Capacity" involves the ability to understand relevant information, but also the ability to retain that understanding long enough to act upon it. It would also, I would add from my own experience, be required with some people, such as those suffering from Asperger's syndrome, to enable them to be encouraged to make decisions for themselves, because part and parcel of that particular syndrome on the autism spectrum is that sufferers cannot bring themselves to do what they know they ought to do.

It includes the ability to use that information as a basis for making a decision and being able to foresee consequences of different possible actions. Lastly, and very critically, it includes the ability to communicate decisions to others. The kinds of people I have been talking about on the autism and Asperger's syndrome spectrum have a great inability to communicate with other people, particularly issues that are fundamental to the needs concerning them at any particular time.

Each of the 35 recommendations of this committee addresses with clarity, compassion and courage the issues that will face government and society in the coming decades. I commend the hard work of the committee members; they have achieved an excellent set of recommendations that will make a real difference to how vulnerable people are assisted in the future in New South Wales.

**The Hon. MARIE FICARRA** [3.38 p.m.]: All civilised societies seek to remove as many barriers as possible for people living with disability to enable them to live independent lives in our community—ideals incorporated into the United Nations Convention on the Rights of Persons with Disabilities and ratified by Australia in July 2008. It is estimated that by 2050 Australians diagnosed with dementia will increase by 330 per cent because of our ageing population. Together with an increasing incidence of mental illness, intellectual disability and acquired brain injury, we clearly have a duty of care for those most vulnerable in our society. Management of financial affairs, as well as medical and dental care, is for these people a matter of self dignity and independence. Recent legislative and operational changes in this State allow for a tribunal system to appoint the New South Wales Trustee and Guardian and the Public Guardian as substitute decision-makers for persons lacking capacity to varying degrees.

We acknowledge that this can vary from time to time in some cases. Certainly, many witnesses expressed the need to improve the definition of "capacity", which is currently based on a 1982 Supreme Court judgement. The presumption of capacity and the promotion of assisted decision-making were preferred by our committee during its consideration of 44 submissions and four public hearings. Substitute decision-making orders where required should be regularly reviewed and managers and guardians need to be supported and guidelines need to be established with regard to more intrusive interventions.

A delicate balance exists between the need to respect and maximise the autonomy of people with disabilities and protecting them from abuse. The committee recommended that the Government assess a community guardianship proposal and establish an office of public advocate in New South Wales. A relevant department or agency should investigate and report on the latter. The committee considers that it is beneficial for the Public Guardian to have a proactive role in investigating the need for guardianship without being obliged to apply to the Guardianship Tribunal when it becomes aware of vulnerable people living in unsuitable circumstances. Our shared objective is that timely care be delivered effectively and appropriately.

After much consultation it was recommended that ministerial responsibility for the administration of the Guardianship Act 1987 be transferred to the Attorney General—a move away from a welfare-based approach to a rights-based approach with regard to people with disabilities. Such a move would also alleviate potential conflicts of interest where the Public Guardian from time to time may need to be critical of service delivery from bodies under the authority of the Minister for Disability Services. For me, the area of conflict with my fellow committee members was the issue of substitute decision-making arrangements with regard to medical consent and end-of-life decision-making. My colleague the Hon. Greg Donnelly and I objected formally via dissenting statements to the committee's recommendation that the Government refer a further inquiry specifically for end-of-life decision-making and advance care directives in this State to the New South Wales Law Reform Commission.

My decision was based on my belief that such a proposal has caused in the past, and will continue to cause, significant ethical and moral dilemmas for the medical profession. Under current common law provisions, healthcare professionals may commence or continue treatment on a person who is unconscious or who otherwise lacks the capacity to consent where no next-of-kin is available, provided it is in the best interests of the patient. Every competent patient has the right to refuse medical treatment, provided that he or she does not do so with the intention of committing suicide. To ask for legislative and judicial powers to allow courts to prevent doctors from saving the life of a person or allowing a doctor to administer care in the best manner possible pursuant to their training and experience would, I believe, not be supported by the majority of our society.

Legislation that could be used to allow a person to commit suicide via the authority of a guardian or otherwise with the assistance of a doctor would place not only members of the medical profession but also the guardians themselves in an invidious position. At present it is a criminal offence for anyone to aid or abet a suicide. If legislated, an advance care directive, for instance indicating the desire not to be resuscitated, for a person who wishes to commit suicide or who is subsequently found unconscious as a result of a suicide attempt would ensure—as per that directive—that that person would have no life-saving treatment administered. The doctor's desire to save that person's life would be over-ridden and treatment in defiance of the advance decision

would be unlawful. I believe this would be a serious infringement on the conduct of ethical medical practice and indeed would, if it were ever enforced in this State, influence the decision of many practitioners to undertake or to remain within the medical profession.

Many successful suicides are committed by persons suffering from mental illness, especially depression, and to prevent a health carer from assisting such cases in accordance with their knowledge and training would be unconscionable. The committee did not give anywhere near adequate consideration to this most contentious issue. Indeed, I was most surprised with its inclusion as a chapter within the report. I do not take lightly issuing a dissenting statement, but sadly on this occasion I found it unavoidable. I sincerely thank our committee chair, the Hon. Ian West, and our secretariat, Rachel Simpson, Jonathan Clark, Kate Harris and Lynn Race, for their ongoing high level of professionalism, patience and diligence towards the Standing Committee on Social Issues and the conduct of its affairs.

**The Hon. TREVOR KHAN** [3.44 p.m.]: First, the matters raised in this report are important and require appropriate consideration by not only the House but also the Government. The committee was ably and efficiently chaired by the Hon. Ian West, as is his wont; he diligently applied himself throughout the hearings to ensure that all appropriate evidence was heard. As usual, his approach not only to the other committee members but also to the witnesses was courteous and thoughtful, and ensured that the report is both voluminous and weighty with respect to its recommendations. I take the opportunity to thank the members of the secretariat who, in their usual efficient way, ensured that the hearings, the deliberations and the preparation of the report were done in an appropriate and efficient manner.

I do not wish to go through every one of the committee's recommendations. Suffice it to say that these matters are very alive to us in various ways. The Hon. Michael Veitch brought to the committee his experience as a foster parent and in his previous occupation. In that regard he assisted in directing us to matters of considerable importance, and I thank him for the way in which he approached those matters. The timing of the deliberations was difficult for me because of circumstances within my family. Indeed, a family member was suffering many of the things that we dealt with in this report. It brought home the importance of having appropriate mechanisms to deal with substitute decision-making. In the context of my personal experience, often we look to government bodies to provide mechanisms for substituted decision-making. However, some of the evidence presented to the committee seemed to suggest that family members were in essence the enemy from whom the person requiring substituted decision-making needed to be protected. In truth, my experience is quite the reverse.

In the vast majority of cases people are placed in nursing homes or in hospital because of their inability to cope or, indeed, their inability to be compos, if they do not have family members to assist them with the most basic functions. In truth, staff in our hospitals and nursing homes are so overloaded with tasks that they are unable to provide the most basic care for people in those institutions. Unfortunately, that extends, for instance, to circumstances in which people in those institutions are confronted with the alternative of either a family member feeding them or their being intubated to enable them to be fed through a tube. The most basic functions are dealt with in a way that makes it convenient for the hospital or nursing home to function, rather than in a way that is best for the patient in the longer term.

My experience is that if appropriate recognition is not given to the very important role of the family we fail to do justice to the way our society works. Families—wives, husbands and children—are fundamental to ensuring the care of people in need of substituted decision-making. There can be no doubt that chapter 12 and recommendation 35 refer to the only area of dissent. I believe recommendation 35 and that section of the report that deals with the use of advance care directives and the like are fundamentally important. The Hon. Marie Ficarra expressed surprise that it was tacked on to the end of the report. But one has only to read the minutes of the meetings to realise that it was tacked on to the end of the report because various committee members took objection to the committee taking further evidence. It was not a bolt out of the blue. The committee did not take further evidence because some members were frightened to do so.

Recommendation 35 is an opportunity for us to confront an issue that our society must confront. In the past 20 or 30 years the levels of medical care in all areas for all people in our society, particularly our aged, have extended extraordinarily. Today people receive advanced care and treatment the like of which was not even contemplated 20 or 30 years ago. As a consequence, lives are being extended longer and longer. Our hospitals and nursing homes are filled with people with dementia—whether it is Alzheimer's or other forms of dementia—not because of the plague of using aluminium pots and pans or anything of that nature but because people are living longer and available treatments are keeping them alive longer, but, frankly, in circumstances when they may not wish to be alive.

Our society must confront the advance care directive issue not because we wish to see people take their own lives. It is not a question of suicide. It is a matter of fact and a matter of law that people have the right—if they know of that right—to direct the levels of care and treatment they are entitled to receive. The decision referred to in the committee report in *Hunter and New England Area Health Service v A* is a perfect example. The person involved in that case said, "Enough, enough. All this treatment is doing me no good". The decision of the Supreme Court in that case said the law was obvious: yes, a person is entitled, if they are of capacity, to direct the level of treatment they are to receive and, when they have so directed, if a doctor disobeys that direction it is an assault on the patient, irrespective of whether they are compos at the time of treatment.

**The Hon. Michael Veitch:** That's the argument.

**The Hon. TREVOR KHAN:** That is it. That is the issue it is appropriate to consider further. That is the question for consideration by the Law Reform Commission, this House or another inquiry. It is fair and reasonable that we consider that matter and consider also how an advance care directive is to be given. Is it to be given orally? Is it to be put in writing? Should it involve a special form like a power of attorney? Can it be written on the back of an envelope or in the back of a *Bible* or as part of a will? This is not an issue that we should seek to sweep under the carpet or frighten people from discussing by talking about assisted suicides. Increasing numbers of people are in varying states of incapacity in nursing homes. Those people are entitled to make decisions about what happens to them. It is a form of substituted decision-making. It is a reasonable area of inquiry, and we do not solve the problem by hiding our heads in the sand or frightening the general populace as the Hon. Marie Ficarra might have us do.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [3.54 p.m.]: As is always the case in this House, it is difficult to follow the Hon. Trevor Khan once he gets on his soapbox. I served on the Standing Committee on Social Issues under the excellent chairmanship of the Hon. Ian West right up to the time of the deliberative meeting, when I was discharged. I want to reiterate some things that the Hon. Trevor Khan said because I have had similar experiences. The submissions and what witnesses told the inquiry about their personal experiences of having the capacity to make a decision removed from them, and the impact that had on their families, humbled me as a member of the committee. The inquiry was quite moving on a number of occasions for that very reason, and it highlighted a complex social issue. In relation to competing duties, the report states:

The practice of substitute decision-making for people lacking capacity lies at the intersection of two competing duties of government towards vulnerable people: to respect their autonomy and to protect them from abuse.

That is very difficult to do because we are dealing with human beings and every human being is different and their circumstances are different. It took quite a deal of time and intellectual investment for committee members to get their head around the definition of someone's capacity to make a decision. Chapter 4 considers the definition of "capacity" at great length. There are various legislative definitions and definitions being used by a number of the disability organisations that gave evidence to the committee. The committee had the opportunity to interview some Western Australian Government officials via videoconferencing—this was not mentioned previously—in the Waratah Room. It was difficult for the Hon. Ian West to chair the meeting because of delays—and not only those caused by members on this side of the camera! I am sure that the videoconferencing facility will be a valuable asset for parliamentary committees into the future.

People often lose capacity at a particular time, but no acknowledgement was given to a gradual loss of capacity and the fact that at some point a person could have the capacity to make a decision or a partial decision. There is currently no graduated process in relation to capacity—one either has capacity or one does not—which does not acknowledge what happens in reality. People can also regain the capacity to make a decision, for whatever reason, particularly in the case of a closed head injury following a motor vehicle accident. Chapter 4 talks about capacity and I recommend that it be read by all because it is quite a conundrum for governments to legislate the definition of "capacity".

Recommendation 1 talks about capacity and the last sentence states that the legislation should ensure that a person is not considered incapable of making a particular decision simply on the basis of their having a disability. The fact that someone has a disability does not mean they are incapable of making a decision for themselves. I think it is extremely important that that statement is acted upon and that all members of this House are mindful of it. It is very easy to look at someone with a disability and make an assumption about what they can and cannot decide or understand. Unless one is that individual, how does one know? The fact that someone has a disability does not mean they cannot make a decision for themselves—and that is a very important

statement. I would like to touch on recommendation 35. I am at a loss to understand how a recommendation that calls for a further inquiry into what is a serious issue exercising the minds of a number of people in society could draw a dissenting statement.

**Dr John Kaye:** Two.

**The Hon. MICHAEL VEITCH:** There are two dissenting statements—I thank the member. I am at a loss to understand it. The recommendation does not take a position and does not call on the Government to take a position; it calls for another inquiry. It even indicates that the New South Wales Law Reform Commission may well be the appropriate body to conduct that conversation with the broader society of New South Wales. I am at a loss to understand how a dissenting statement could be presented on a recommendation that I think responsibly calls on the Government to constitute a further inquiry into what is a very serious matter. It does not advocate a position one way or the other. I think it is worthwhile having a conversation with society about how it wants governments to deal with advance medical orders and physician-assisted suicide. This is something we should not walk away from. We should not bury our heads in the sand about this issue. We should all be grown up enough to have that conversation with society. I am certain society is mature enough to have that conversation with us. I thank Hansard and the committee secretariat. They did an outstanding job, as usual. I also thank my fellow committee members. Regardless of our positions, it was a very moving and thought-provoking inquiry.

**Dr JOHN KAYE** [4.03 p.m.]: I join my colleagues in addressing the report of the Standing Committee on Social Issues on substitute decision-making for people lacking capacity. I will largely reiterate the points made by Trevor Khan, Michael Veitch and the committee chair, Ian West, in regard to the inquiry. But before I do so I wish to thank my colleagues: Ian West—who, as always, conducted what was at times an emotionally difficult inquiry with a great degree of integrity and concern for the wellbeing of witnesses and sensitivity regarding the issues being dealt with—Trevor Khan, Greg Donnelly, Marie Ficarra, Helen Westwood and Mick Veitch, who were excellent to work with when considering these difficult matters. I also thank the committee staff—Rachel Simpson, Jonathan Clark, Kate Harris and Lynn Race—who, as always, did an excellent job of sorting through the very complex body of evidence and keeping the inquiry provisioned and running. I mostly want to thank the witnesses and submission writers—remarkable people, each and every one of them—whose incredible experience with people who lacked the capacity to make their own decisions was translated into very intelligent and cogent recommendations and information for the inquiry. Their evidence, both written and oral, is a tribute to all that is good and decent in humanity: the capacity to care for people and to make decisions that are motivated by the best interests of those around them.

The issue of substitute decision-making, as others have pointed out, is a difficult and challenging area, largely because it requires the balancing of two completely contradictory forces. On the one hand, there is the basic human right of autonomy over decisions, which of course includes—to make it even more difficult—the right to make a mistake. You have the right to make a decision that others around you might think is silly. On the other hand, there is an imperative to protect the safety and welfare of all individuals and those around them, and particularly those who have less capacity to make decisions. We must protect individuals from exploitation and harm, including—in an almost contradictory fashion—the capacity to inflict harm on individuals that we as a society declare to be irrational. The inherent contradiction between those two imperatives means that inevitably there will be a trade-off and that that trade-off will be subjective. But this is not a problem that we can sweep under the carpet simply because it is too difficult.

Between now and 2050 it is expected that the ageing of the population will result in a 330 per cent increase in the number of people with dementia. The way to untie the Gordian knot created by the two competing imperatives was drawn to the committee's attention. It is the United Nations Convention on the Rights of Persons with Disabilities. I pay particular tribute to one of our witnesses, Professor Ron McCallum, professor of law at the University of Sydney, who helped write part of the United Nations convention and whose description of the convention and explanation of its importance certainly persuaded me—and I think other committee members—that this ought to be our starting place.

The convention contains several key principles. The first is that one ought to start from the presumption of capacity, not from the idea that people have incapacity that we need to deal with and need to prove where capacity is inadequate. The second principle is the one of least restriction: respecting the autonomy of individuals to make decisions by imposing the smallest amount of restriction. The third is promoting assisted decision-making rather than substitute decision-making. These are key expressions of the prescription for respecting human rights. This led the committee to make 35 key recommendations. The first and most important

is a single definition of capacity. It is important to define capacity rather than incapacity—that is, to find a positive rather than a negative—and to recognise that capacity varies with time and with the domain of decision-making. We should not consider that an individual has incapacity or lacks capacity by dint of a disability—that is to say, make the transition from a medical diagnosis to a functional assessment of capacity.

Recommendations 2, 3 and 4 seeks to enshrine in legislation the presumption of capacity—to say that there is not a lack of capacity because of a disability or because of an unwise decision—and assisted decision-making. Recommendation 6 proposes removing the phrase "because of a disability" from the Guardianship Act and replacing it with a functional description. Recommendation 9 states that the tribunal should always consider the adequacy of informal guardianship arrangements without necessarily resorting to the heavier hand of legally imposed guardians. Recommendation 10, which considers the triggers for reviewing guardianship orders, recognises that capacity changes may occur within the duration of an order. It asserts that capacity is a dynamic concept and that in some cases individuals may regain capacity over time. This is consistent with the principle of restricting a person's rights as little as possible and is supported by the evidence provided by Brenda Lee Doyle, the provincial director of the Office of the Public Guardian in Alberta, Canada, and Professor Ian Hickey, the famous executive director of the Brain and Mind Research Institute at the University of Sydney.

Recommendation 13, which proposes a new criterion for appointing financial managers, is based on the same principle that tests the appropriateness of appointing a guardian. It applies this principle to the appointment of a financial manager. This will prevent the appointment of a financial manager with undue conflicts of interest and ensure that the personality of the manager is generally compatible with that of the person under the order.

Recommendation 19 is also strongly supported. It suggests an amendment to the Guardianship Act to enable the management of part of a person's estate, recognising that there are various domains of incapacity and an individual may need guardianship in some areas but not in others. Recommendation 30, which proposes a proactive investigation of need for guardianship by the Public Guardian, needs to be treated with great care. On the one hand, it is important that complaints can be investigated. On the other hand, it is important that we do not set up a court of star chambers. Recommendation 33 suggests a transfer of the Guardianship Act to the Attorney General and away from Ageing, Disability and Home Care. That will remove conflicts of interest and create a clearer degree of accountability.

I turn now to recommendation 35, which proposes the consideration of an inquiry into end of life decision-making and advance care directives by the New South Wales Law Reform Commission. The Greens strongly support this recommendation. End of life decision-making and advance care directives are an important expression of the human right of autonomy. Decisions about medical treatment will be made at the end of human life. Whether those decisions are about treating or not treating, or the nature of treatment, they will be made. Advance care directives allow individuals to have some say should they lose capacity, just as they would have a say if they maintained capacity. To deny people the right to advance care directives would be equivalent to denying people who have not lost capacity the right to have a say over their own medical treatment.

It is important to note that the recommendation calls only for the Law Reform Commission to conduct an inquiry; it does not say we should go ahead. We accept that the committee did not take evidence in great depth on this issue. The evidence we received was accidental because advance care directives were not part of the terms of reference. That does not detract from the validity of the recommendations. There was enough evidence presented to safely conclude that there is a problem. In fact, there are two problems. One is the problem that attaches to medical practitioners dealing with people who have lost capacity at the end of their lives and the second is the basic human right of every individual to have a say about how they are treated. This is not about assisted suicide; it is not about euthanasia. It is about allowing people to have a say about how they are treated medically. If we do not reinforce the right to advance care directives we are taking away the rights of individuals to express their desires as to how they are to be treated medically. It is a fundamental right and one that should be supported.

**The Hon. IAN WEST** [4.12 p.m.], in reply: I thank members of the Standing Committee on Social Issues for their contributions to this take-note debate. I again thank the committee secretariat—Rachel Simpson, Jonathan Clark, Kay Harris and Lynn Race—for their efforts in managing the inquiry process and preparing this report. I thank committee members for their application to the difficult task of balancing their competing duties. We all had a lot to learn from this committee and I believe we did it in a deliberative and sensitive way that enabled us to come to grips with some very sensitive issues. In its deliberations the committee ensured that the people giving evidence were able to do so in a way that made them feel comfortable, and I am extremely

thankful to committee members for ensuring that that occurred. As has been indicated repeatedly by members of the committee, there is a delicate balance to be struck in enabling people to make decisions on their own behalf and to have complete capacity while ensuring they are not disadvantaged in any way—just like any other person in the community.

The report consisted of 12 chapters and 35 recommendations. I thank the members who made a contribution in relation to the sensitive issue of recommendation 35. The committee deliberated for some time on the issue of advance care directives. It had to come to grips with ensuring that people involved in end of life decision-making and advance care directives had the ability to control the outcomes and at the same time take into account people's extreme sensitivities so that nobody in the community is taken advantage of. The committee acknowledges the dissenting statements by the Hon. Marie Ficarra and the Hon. Greg Donnelly and notes that they feel very strongly about the issue. The committee was sensitive to ensure that the views of those two members were taken into account.

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

## **BUSINESS OF THE HOUSE**

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

**Ms SYLVIA HALE** [4.15 p.m.]: I move:

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

It is my intention, should this motion be passed, to move that private members' business item No. 269 outside the Order of Precedence, relating to pollution at Barangaroo, be called on forthwith. I would then move the motion and, at the conclusion of the debate, I would move that an order of the day for the resumption of the take-note debate on budget estimates take precedence until 5.00 p.m.

It was very clear from the debate this morning that the House considered the production of papers in relation to pollution at Barangaroo was sufficiently urgent for it to suspend standing orders. I believe the House would also be of the view that it is urgent that this matter be expedited as quickly as possible. I certainly have no wish to take up the time for debate on the budget estimates, nor do I wish in any way to delay the inaugural speech by the newest member of the House. I urge the Government to support this motion and to allow private members' business item No. 269 to be debated and resolved forthwith so that the House can continue with the business that is set down for today.

**The Hon. GREG DONNELLY** [4.18 p.m.]: The Government does not support the motion. It is quite extraordinary that Ms Sylvia Hale disrupts the business of the House this afternoon. She knows full well that today's program includes the Hon. Luke Foley's inaugural speech. The Government does not support the motion.

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

**Motion agreed to.**

### **Order of Business**

**Ms SYLVIA HALE** [4.19 p.m.]: I move:

1. That Private Member's Business item No. 269 outside the order of precedence be called on forthwith.
2. That on conclusion of debate on the motion the order of the day for resumption of the take-note debate on Budget Estimates takes precedence until 5.00 p.m.

It is not necessary for me to elaborate on the motion.

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

**Motion agreed to.**

## **BARANGAROO DEVELOPMENT**

### **Debate resumed from an earlier hour.**

**The Hon. GREG DONNELLY** [4.21 p.m.]: The Government's position was stated very clearly by Government members during debate on the suspension of standing and sessional orders. The Government does not support the motion.

**Ms SYLVIA HALE** [4.22 p.m.], in reply: I thank the House for dealing with matters so expeditiously and I will not prolong the agony. During debate the point was made that we were calling for the production of the voluntary management proposal, which already is available, but the motion calls for all documents relating to and including the voluntary management proposal. We want to know what was and what was not agreed. It is what has been left out of the proposal and what was proposed but has not seen the light of day that the call for papers is intended to target. I thank members for their support of the motion, particularly the Opposition and the crossbench.

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

#### **Motion agreed to.**

#### **Pursuant to resolution debate on the budget estimates proceeded with.**

## **BUDGET ESTIMATES AND RELATED PAPERS**

### **Financial Year 2010-2011**

#### **Debate resumed from 23 June 2010.**

**The Hon. CHRISTINE ROBERTSON** [4.24 p.m.]: In commending to the House the healthy and effective 2010-11 New South Wales budget delivered by the Keneally Labor Government, I will focus on how it affects country areas and my duty electorates in the New England and north-west regions of the State. In summary, the 2010-11 budget is a very positive step forward from the prediction made last year of a deficit result. The final budget result for 2009-10 was a \$101 million surplus with a \$773 million surplus for the budget year 2010-11. The next three years are predicted to be surplus budgets. The bottom line is that New South Wales has performed very strongly and better than expected in recovering from the global financial crisis. The State economy's green shoots are often referred to in this place.

The Keneally Government has put New South Wales back in the black and in a great position from which to grow. For country New South Wales, the 2010-11 budget builds on the strong initiatives of last year's budget. Country Labor members are very proud to have participated in the process. The budget provides for extension of the Community Building Partnership by \$35 million to provide infrastructure for the benefit of communities throughout New South Wales. Electorates with average or above average unemployment have been allocated \$400,000 as a funding pool for projects, and other electorates have been allocated \$300,000. The application period for this year's projects already has expired. We can expect to see some great projects underway in the near future. One of the great features of that program has been integration of communities and community groups in the process, resulting in community ownership of the process. It has been a very exciting program for country areas of New South Wales.

Community Services has received a \$10 million boost to its budget that will be directed towards neighbourhood and community centres. When representing the interests of many centres that made contact with our offices, Country Labor lobbied hard for additional funding in the budget to be directed to Community Services. It is a hugely worthwhile investment because neighbourhood centres do a fantastic job, especially in country communities. Another project of great benefit to country areas is the Keneally Government's investment of \$3.5 billion in rural and regional roads in 2010-11, representing more than 70 per cent of the total New South Wales Roads budget. It is very difficult for Country Labor members to do their work when perpetual lies are circulating about the Roads budget. The Roads allocation includes \$15 million for roadways of critical importance, such as the Pacific, Princes, Hume and Great Western highways.

Regional transport also received a boost of \$355 million allocated to private bus services for rural and regional areas and a \$34.2 million to fund concessional travel for pensioners and students on CountryLink

services. It is hugely important for people in country areas to know that there is access to integrated transport services. A record budgetary investment of \$4.4 billion for country hospitals followed the Keneally Government's agreement with the Commonwealth Government in relation to health reforms. The Government has also invested \$5.2 billion in rural and regional education, including \$94 million for major upgrades at 42 schools and \$55 million for upgrades at 22 TAFE colleges.

**The Hon. TREVOR KHAN:** Are you going to build the dam?

**The Hon. CHRISTINE ROBERTSON:** The debate on Chaffey Dam will not occur now. It will take place during private member's business. Country broadband internet services, country halls and small community websites received further funding of \$3.14 million in the budget. Community halls are at the centre of New South Wales local towns and villages. Applicants who are eligible to receive assistance from the program will have access to an additional \$550,000 funding pool to assist with refurbishment and upgrade of country halls. That has been an incredibly popular and important program.

The budget also includes a range of other investments in country areas of New South Wales, including more than \$1 billion for ageing, disability and home care support in regional areas, which is an increase in investment of 9.3 per cent on last year's allocation. The budget allocates \$972 million for emergency services that will deliver more fire engines and other equipment and creates additional employment opportunities in regional centres. It has been delightful to witness the benefits provided by the State Labor Government to emergency services across country New South Wales in the last five years. The budget ensures continuation of that progress. The budget also provides more than \$544 million for water infrastructure throughout rural and regional New South Wales, including \$30.4 million to improve sustainability of the Murray-Darling Basin. There will be major capital works at health facilities in Taree, Port Macquarie and Queanbeyan.

**The Hon. Rick Colless:** Queanbeyan, not Queanbe-yan.

**The Hon. CHRISTINE ROBERTSON:** I will say "Queanbe-yan" if I please. The budget also provides a \$90 million package to boost regional jobs, businesses and communities. An additional \$61 million has been allocated to continue construction of the Cessnock Correctional Centre and \$20 million has been allocated towards a new correctional facility at South Nowra. The South Nowra project is incredibly important. Security upgrades will be delivered for Bathurst, Lithgow, Grafton, Kariong, Berrima, Cooma, Broken Hill, Ivanhoe, Tamworth and St Heliers at Muswellbrook. The correctional centres based in country areas of New South Wales have been of phenomenal benefit to those who have the misfortune to use them and their families, and have made a significant impact on employment throughout the State. Through this budget the Keneally Government is delivering investment and jobs for rural and regional communities. My three duty electorates in the New England and the north-west of the State—Barwon, Northern Tablelands and Tamworth—provide a good snapshot of investment in the country.

In Health, the budget provides a share in \$2.4 million to complete a new Multi Purpose Services(MPS)/HealthOne at Coonamble. That is very exciting and is well on the way, and I am happy to report that it will open soon. The budget also provides \$21.7 million to continue the redevelopment of Narrabri Hospital, another very exciting project, at an integrated multifunctional campus that meets the health needs of the ageing community in Narrabri and the surrounding district. The budget also includes the following: \$10.1 million to progress the construction of new MPS/HealthOne facility at Manilla; \$840,000 to complete planning and start work on the refurbishment of Tamworth Hospital at a total cost of \$55 million, including the new cancer centre; \$1.5 million to commence the Werris Creek Multi Purpose Service, which is another essential service; \$200,000 to start the expansion and refurbishment of outpatient clinics area and chemotherapy services at Armidale hospital.

In Education, laptops are being rolled out to high school teachers, with 255 in Barwon, 124 in Tamworth and 185 in the Northern Tablelands. The New South Wales Government funds these to complement the laptops for students that the Commonwealth Government is funding. Funding of \$2.3 million has been allocated to complete work on the metal fabrication and welding and fitting and machining block at Tamworth TAFE; \$606,000 to complete work on a new gym at Gunnedah High School; a major new facility for training in film, screen, hospitality and fitness at Armidale TAFE; toilet upgrades at a cost of several million dollars in several schools across the region at: Boomi Public School, Moree East Public School, Pallamallawa Public School, Toomelah Public School, Dungowan Public School, Oxley Vale Public School, Yeltman Public School, Croppa Creek Public School, Duval High School, Mingoola Public School and Red Range Public School.

In the Roads budget, \$97 million dollars has been allocated to Barwon, with projects including: \$3.6 million for implementation of a safety package on the Newell Highway as a result of a safety review; \$3.5 million for replacement of Beemery Bridge over the Bogan River on the Kamilaroi Highway; \$2.6 million to continue construction of the Moree bypass on the Newell Highway; four timber bridge replacements, bridge upgrades, road widening and repairs and other works. Tamworth has been allocated \$19.4 million for various projects such as road widening, repairs and traffic management. Northern Tablelands has been allocated \$37.5 million.

Families in New England benefit from the investment of \$5.9 million for the Taxi Transport Subsidy Scheme; \$24.8 million for the Private Vehicle Conveyance Scheme, which subsidises the cost of parents; \$34.2 million in fund concession travel for pensioners and students in CountryLink; \$826,000 towards refurbishment of CountryLink's XPT locomotives, and we heard today they actually have been completed and are rolling out onto the rail. In addition, \$20 million has been provided for Rail Infrastructure Corporation capital works budget, including rerailing, bridge renewals, level crossing surface upgrades, upgrading to continuous welded tracks and new steel sleepers for tracks (those out on the roads would actually see this work happening right now). Funding of more than \$20 million has been allocated for rail maintenance, which includes many things, such as overbridges.

In Housing, we have done very well: \$3.5 million to complete construction of 64 homes at Moree; \$12.8 million for 121 in Tamworth and South Tamworth; \$12.1 million for 129 homes at Armidale, Glenn Innes, Ben Venue and Soudan Heights. Under the Aboriginal Communities Development Program \$930,000 has been allocated to complete work on three dwellings at Brewarrina, and 20 dwellings are being sewer connected at Tinga. In addition, \$1 million has been allocated to the designing and planning of a new \$15 million courthouse in Armidale, which is to be completed by early 2013. I do not have time to give details of everything, but we have done well—I am so proud.

**The Hon. MATTHEW MASON-COX** [4.34 p.m.]: The 2010-2011 New South Wales budget must indeed be viewed as part of this Government's narrative over the last 15 years, rather than in isolation. It is the last in a long line of budgets, we trust, designed to create a perception of fiscal responsibility, a veneer of economic respectability to hide the flagrant misuse of taxpayers' funds by this Government to further its shameless political agenda.

The most superficial of glances reveals what a glaringly political document this budget indeed is. If we turn to the index, we see phrases such as "maintaining sound finances" and "sustainable balance sheets". Goodness knows whatever happened to financial statements and a robust New South Wales balance sheet. Indeed, it just does not sound as good as the labels given by this New South Wales Labor machine. The fingerprints of this Labor machine with its battalion of spin doctors are all over what should be an objective document detailing the finances of the New South Wales Government.

If we look more closely, we find terms such as "the better services and value plan" or "a comprehensive housing supply strategy" or the "fully funded metropolitan transport plan". There is no mention of the ministry of truth. The late George Orwell would be in raptures over the way in which Labor has slavishly adopted the art of doublespeak. Let no-one be in doubt that big brother is in charge of New South Wales. Let us consider some of the key areas of this State budget.

As members are aware, the budget is only as good as the assumptions upon which it is based. If one looks at appendix F, the budget risks, which are detailed quite expansively by the budget, it can be seen that a 0.5 per cent increase in expenses and a 0.5 per cent decrease in revenues will worsen the expected budget result for 2010-11 from a surplus of \$780 million to a surplus of around \$200 million. The budget notes that such small movements should be interpreted with caution, as should everything this New South Wales Labor Government does.

I now turn to the comments in relation to wages growth. It notes that 48.8 per cent of total general Government expenses is included in employee-related costs. The reality is that the table in appendix F, table F1, details the sensitivity of these fiscal aggregates to changes in key economic parameters. In particular, the Government has assumed as part of this budget that the wages increase and associated costs will be 2.5 per cent per year, the midpoint of the Reserve Bank of Australia's 2 to 3 per cent target inflation rate.

One need only look at past performance from this Government to see that this is really quite a laughable assumption. The outcome over the past couple of years has seen increases in wages of 4 per cent, well

above the Government's target of 2.5 per cent. If this were to occur again in this budget year, as one would expect, given the already concluded wage outcomes, the reality is that this 1.5 per cent increase above the Government's target of 2.5 per cent would, on its own sensitivity analysis, give a result of a reduction in the surplus of \$418.5 million. In just one moment, we can lose 54 per cent of the proclaimed budget surplus. If then one adds the superannuation component that would flow from such an increase in wages, we find another \$277.5 million or \$696 million in total, amounting to over 90 per cent of the proclaimed surplus of \$780 million.

The reality is that the assumptions underlying this budget make it very precarious indeed. The Government's wage and expense assumptions are particularly precarious, and I note some of the comments made in relation to efficiency dividends and the so-called better services and value plan. We are expecting under this Government a 1.5 per cent efficiency dividend over the next few years and that again will translate into the bottom line savings the Government targets. The reality is that we have not seen these savings in the past. Indeed, in the Burdekin report that this Government produced a number of years ago, we saw that expenses growth continued to outpace the revenue growth. The reality is that this Government continues to fall behind in its efficiency targets.

The objective measures referred to in the budget as prescribed by the Government under the Fiscal Responsibility Act 2005 are dealt with in some detail. I refer to the medium-term and long-term targets. The target for the medium-term general Government sector net financial liabilities, the legislative target under the Government's own Fiscal Responsibility Act 2005 is that that be at 7.5 per cent of gross State product by June 2010. Under the current budget, the status of that is 11.5 per cent of gross State product at 30 June 2010. Again, that is well above the target of 7.5 per cent. The other medium-term target that has been legislated is to maintain general government sector net debt as a share of gross State product at or below the level of June 2005, which was 0.9 per cent of gross State product. Under this budget, the debt is estimated to be 2.7 per cent of gross State product as at 30 June 2011. That is well above—almost 2 per cent—the Government's legislated target.

The long-term fiscal target is to maintain general government sector net financial liabilities at or below 6 per cent of the gross State product by June 2015. Under this budget, the general government net financial liabilities will only decline to 10 per cent of gross State product as at 30 June 2014—some 4 per cent above the Government's legislated target. Under the Government's legislated targets, the general government sector net debt should be maintained as a share of the gross State product at or below the June 2005 level. Again, the budget shows that the Government is well above that target. I need not mention the State sector unfunded superannuation liabilities, which were meant to be eliminated by 30 June 2030. Under the current assumptions in the budget, the Government is a long way from achieving that.

On all objective criteria stipulated by the legislated targets, the Government fails under this budget, and the situation is only likely to get worse. I note in particular the range of broken promises, cost overruns and cynical reannouncements in this budget. One can only expect that from this Government. Indeed, my favourite occurred only recently in relation to the Federal election campaign, when the Prime Minister and the New South Wales Premier appeared before the cameras to announce the Epping to Parramatta rail link. I think it was a surprise to the Premier that the Federal Government decided in its largesse to provide \$2.6 billion towards funding the Parramatta to Epping link. That went down like an absolute clanger in the electorate; no-one believed it. The people of Bennelong expressed their confidence in the Government's ability to deliver by saying goodbye to Maxine—game, set and match.

That shows the cynicism in the wider electorate in relation to the Government's promises in relation to not only that rail project but also the many rail and road projects that have been announced and reannounced over the past 15 years. I note in particular that this issue was raised directly with the Minister for Transport in question time yesterday. On three occasions we specifically asked the Minister where the Government would find the \$520 million that had been promised by the New South Wales Government in relation to the Federal election promise. The Leader of the Opposition, the Hon. Michael Gallacher, asked the Treasurer how this money would be reallocated from what is known as the fully funded Metropolitan Transport Plan but he received no answer. The Deputy Leader of the Opposition asked the Minister how he expects to fund the Parramatta to Epping rail link, considering that it is not currently a project in the 10-year horizon of the Metropolitan Transport Plan.

**The Hon. Duncan Gay:** But he didn't answer.

**The Hon. MATTHEW MASON-COX:** Again, the Minister refused to answer.

**The Hon. Duncan Gay:** He could not answer.

**The Hon. MATTHEW MASON-COX:** The Minister could not answer because it is simply a statement of fact. Yesterday in the other place we saw the Premier lope to the other side of the House and grab the transport plan from the shadow Minister for Transport and point to a footnote that made it clear that the Parramatta to Epping rail link project was not in the plan because it would not be costed in the 10-year horizon covered by the plan. So the Government is condemned by its own document, which condemns the cynicism of the response we have received to date. I could not help but feel sorry for the transport Minister as he tried to defend the indefensible. This budget confirms that the Labor Party has given up on governing in the best interests of the people of New South Wales. The quicker we move to 26 March and the quicker this Government is gone, the better for the people of this State.

**The Hon. IAN WEST** [4.43 p.m.]: It is a pleasure to participate in this debate and to reinforce the 2010-11 State budget recently delivered by the New South Wales Government, which combined financial responsibility with record investment in key policy areas. As honourable members are aware, our budget has already returned to surplus much sooner than projected, thanks to the impressive economic management of the Keneally Government. Considering the difficult context in which this was achieved, with countries throughout the world struggling under the heavy burden of debt, the fact that our financial position remains stronger is all the more impressive.

I draw the attention of members to the Government's record infrastructure and investment package, which has seen our great State through one of our most challenging economic periods. Record investment and infrastructure building measures have made a real difference to all New South Wales citizens and in particular to the electorates in which I have a particular interest, namely, Ryde, Cronulla and Castle Hill. As members opposite are aware, New South Wales is Australia's leading State. The gross State product is \$382 billion. We invested \$53 billion in New South Wales business in 2009. Forty-six per cent of Australia's finance and insurance industries are located in New South Wales, 48 per cent of the top 500 companies in Australia in terms of revenue are located in New South Wales, and 42 per cent of Australia's information media and telecommunications industry are located in New South Wales.

[*Interruption*]

Members opposite should listen to these figures because they show that New South Wales is leading the country in recovery. Thirty-eight per cent of Australia's professional scientific and technical services are located in New South Wales. The Deputy Leader of the Opposition is well aware that more than one-third of Australian businesses choose to be in New South Wales. Thirty-two per cent of Australia's manufacturing industry is in New South Wales. More than 650,000 small businesses in New South Wales employ about 1.7 million people, and the number is rising. Thirty-three per cent of all the State's small businesses are located in regional New South Wales. New South Wales is tenth out of 215 cities in the worldwide quality of life index published by Mercer Human Resource Consulting in 2010.

Forty-one per cent of Australian service exports in 2008-09 totalled \$21.6 billion, and 25 per cent of Australia's gross domestic product is produced in Sydney. I am sure members opposite are aware of those figures and, if truth be known, they are extremely proud of them. They know that New South Wales is growing beyond any other State in the country, due to the magnificent, impressive Keneally Government. I turn now to the seat of Ryde and the Government's investment in that seat.

Ryde is a big winner out of the budget as this Government has invested in important local infrastructure and services. The Keneally Government is delivering important services and building essential infrastructure to secure a better future for families and businesses in Ryde. Major investments in the electorate of Ryde include: \$1.3 million for a pedestrian bridge across Epping Road; \$1.1 million for the widening of the western side of Lane Cove Road from Waterloo Street to Epping Road at Macquarie Park; \$4.4 million towards the upgrade of Ryde Bus depot; \$14.9 million commencing construction of 63 homes for disadvantaged people, of a total investment of \$23.1 million; \$2.5 million for the completion of the new community living accommodation for 63 people in Ryde and North Ryde; and \$13 million to construct a new zone substation in Top Ryde to provide for increased demand, including Top Ryde shopping centre extensions.

The New South Wales budget has focussed on delivering local infrastructure projects and securing important front-line services such as police, teachers and nurses. The Keneally Government is building for the future and ensuring that the community benefits from the strong position in which New South Wales budget has

put the State, which is now back in the black. In relation to education in Ryde the New South Wales Government has provided approximately \$11,000 for 22 laptops for high school teachers to complement the laptops for students that were funded by the Commonwealth Government. In relation to roads in the electorate of Ryde \$9.7 million has been allocated—\$600,000 for network development, \$2.9 million for infrastructure maintenance, \$5.8 million for traffic and transport management and \$398,000 for road safety.

In the Ryde electorate the budget provides \$1.3 million for a pedestrian bridge across Epping Road near Vimiera Road Marsfield; \$1 million to extend the left-turn lane and bus lane on Epping Road from Wicks Road to Delhi Road, Macquarie Park—a matter that has been outstanding for sometime; \$1 million for construction of a shared use pathway along Wicks Road and Waterloo Road for Epping Road to the Lane Cove Road; \$600,000 towards the upgrade of the M2 between Windsor Road and Lane Cove Road; and \$531,000 for maintenance of traffic lights and signs. In relation to transport \$4.4 million has been provided for the upgrade of the Ryde Bus depot, and \$1.9 million has been allocated for rail maintenance, including track overhead wiring and stations to ensure a smoother ride for passengers and minimising disruption to services. Families in Ryde will also benefit from the Keneally Government's investment. There is an allocation of \$144.6 million for 200 new buses as part of the Metropolitan Transport Plan for Sydney, Wollongong, Blue Mountains, the Central Coast and the Hunter; \$78 million for 155 replacement buses for the Sydney metropolitan area; \$6 million for the integrated transport information service enhancements; \$1.7 million for improvements to Sydney Ferries customer information service; \$304 million towards the rail clearways program to increase capacity and to strengthen reliability of the CityRail network—

**The Hon. Duncan Gay:** Do you have a ferry at Breakfast Point?

**The Hon. IAN WEST:** More services at Breakfast Point and Cabarita are needed. In fact, those services have just been improved and increased by the Keneally Government. Compared to the position three months ago, services to Cabarita and Abbotsford have increased with three additional services in the morning and two additional services in the evening. [*Time expired.*]

**The Hon. HELEN WESTWOOD** [4.53 p.m.]: The Treasurer, the Hon. Eric Roozendaal, is to be commended for the outstanding budget that he has delivered on behalf of the Keneally Government to the people of New South Wales. Treasurer Roozendaal has ensured that the New South Wales budget has already returned a surplus, two years earlier than forecast. With this budget the Keneally Government is building a better future for families and businesses of New South Wales. It is taking New South Wales forward into a new era of very strong economic growth. As the Hon. Ian West said, this has been accomplished in very difficult economic times in the middle of a global financial crisis. This economically responsible budget delivers record investment in essential front-line services of \$56.9 billion, an increase of \$2.9 billion or 5.5 per cent on the 2009-10 budget. There is just so much good news in this budget, and regretfully I will not have enough time today to speak about all the areas that are significant and important.

**The Hon. Don Harwin:** Come back next week!

**The Hon. HELEN WESTWOOD:** I would love to. Indeed, I may have an opportunity to do just that. I will save some for the member. But because of limited time available to me today I will keep my comments relevant to significant and key policy areas that are an important priority for me, particularly for families of New South Wales and specifically for women. I refer to the great investment made by the Keneally Government in combating domestic violence. The action plan is part of a two staged strategy to prevent violence against women. The focus of this plan is on domestic and family violence. Sexual violence against women is another area of real social concern in our community and will be addressed in part two of the strategy that I understand will be released towards the end of this year.

The Domestic and Family Violence Action Plan contains 91 actions within five strategic directions: prevention and early intervention; protection, safety and justice; the provision of services and support; building capacity; and data collection and research. The action plan is aimed at reducing the prevalence of domestic and family violence in New South Wales, and in increasing community awareness that such violence is unacceptable and a crime. The plan also seeks to make sure that women and children receive the best possible responses when escaping violence, both for the short term and the long term. Key actions include the provision of \$2.2 million over five years to support five existing Domestic Violence Proactive Support Services in the specific areas of Redfern, Marrickville, Wollongong, the Canterbury-Campsie district and Sutherland; and \$1.5 million to expand the Domestic Violence Proactive Support Services Program to the following areas of high need—Armidale, New England, Coffs Harbour, Eastern Suburbs, Rockdale, Kogarah and Parramatta.

An amount of \$2.4 million will be provided to expand the Domestic Violence Practitioner Scheme to an additional 15 court regions across New South Wales in areas with high rates of apprehended domestic violence orders being sought and a strong demand for legal and support services for women seeking those orders. The Domestic Violence Practitioner Scheme provides legal assistance to women and children seeking apprehended domestic violence orders in the Local Court and helps them to access a network of professional services that can assist them with their other legal and social welfare needs. We are also expanding the Rural Women's Outreach Program, which I am sure members opposite are interested in. This program will provide an additional two locations, including one with an Aboriginal-specific focus. It will also be bolstering the capacity of this program in its existing two locations.

This program provides legal advice, community legal education and support to women in remote and rural locations who otherwise might not have access to these services. I am sure all members can appreciate the importance of this type of service. Women in rural and particularly remote areas have great difficulty accessing the sorts of services and information that they need to enable them to escape violent relationships. We are working with the Commonwealth to support the Orana Far West Women's Safe Houses project model, which provides safe accommodation and support services for women and their children escaping violence in the Far West. Again, the focus will be on Aboriginal communities.

As part of the plan, we are also implementing the domestic violence death review team. This makes New South Wales one of the first Australian jurisdictions to investigate domestic violence deaths and to identify ways we can prevent such deaths in the future. Again, all members will acknowledge the importance of the work of the domestic death review team. Far too often we hear of women and children dying at the hands of the person with whom they are in a familial or sexual relationship. It is such a huge cost to humanity that we still have women and children dying in intimate relationships. Clearly, the work of this death review team will help us to understand the causes and, most importantly, identify the signs of risk to a woman, and we can provide the sorts of programs, services and education that will prevent such deaths from occurring in the future.

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

#### **ADJOURNMENT**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.00 p.m.]: I move:

That this House do now adjourn.

#### **INAUGURAL SPEECH OF THE HONOURABLE LUKE FOLEY**

**The DEPUTY-PRESIDENT (The Hon. Kayee Griffin):** Order! I direct that the clock not be started for the adjournment debate until the Hon. Luke Foley has concluded his inaugural speech. I ask members to extend to the Hon. Luke Foley the usual courtesies given to members making an inaugural speech.

**The Hon. LUKE FOLEY** [5.00 p.m.] (Inaugural Speech): I acknowledge the traditional owners of the land and pay respect to their elders. It is with pride and humility that I enter this place, Australia's oldest Parliament, as a representative of Australia's oldest, and greatest, political party—the Australian Labor Party.

Today political parties are much maligned. I want to speak in their defence. Before the 1890s membership-based political parties did not exist. When elections came around, candidates representing ruling-class interests simply put themselves forward. Across the world, the parties of the Left invented the notion of party membership. The founders of my party came together because they knew they could only achieve decent treatment at work, free schooling, extensions to the franchise and reform of land laws through collective, rather than individual, action.

Above all, I am Labor, committed to equality, solidarity and social justice. I believe in the principles of the party and in a party of principle. I have been a member of the Australian Labor Party for 22 years. I served the party in a full-time capacity as Assistant General Secretary of its New South Wales branch from 2003 until June this year. I have some experience of Labor's remorseless internal politics. I have always felt that our members and supporters deserve a party machine worthy of Labor's message. Political power is a means to an end; it should never be the end in itself. I reject the empty pursuit of power. There is no honourable political future for a Labor Party that will not uphold courageously the principles from which it draws life. My political involvement has a purpose and a direction. My idealism imagines a better kind of world.

I draw inspiration from one of the great radical documents in human history: the American Declaration of Independence. What was radical in 1776 was the notion that government arose from the people and was not a gift to them or an imposition on them. The American Declaration of Independence established the concept of human rights, for the first time in history, as the basis for a nation. I hold human rights to be universal. I do not believe that, in today's world, human rights are the exclusive preserve of Westerners. Anti-totalitarianism is at the heart of my politics. Today a totalitarian movement of the far Right is threatening pluralist democracies and the lives and freedoms of people in many societies, including our own. This global Islamist movement is misogynist, racist and homophobic. This movement's extremist ideology is, of course, based on an utter perversion of the Islamic faith. Too many progressives are silent about this or deny this. Governments everywhere have a profound duty to protect their citizens from the threat of extremist Islamist terrorism. I intend to maintain an active interest in this over my time in this place.

My values are social democratic values. When I talk of my commitment to equality, I mean the concept of equality that Gough Whitlam promoted over a quarter of a century in the Commonwealth Parliament. Whitlam wrote:

... increasingly, a citizen's real standard of living, the health of himself and his family, his children's opportunity for education and self-improvement, his access to employment opportunities, his ability to enjoy the nation's resources for recreation and cultural activity... are determined not so much by his income but by the availability and accessibility of the services which the community alone can provide and ensure.

The quality of life depends less and less on the things which individuals obtain for themselves and can purchase for themselves from their personal incomes and depends more and more on the things which the community provides for all its members from the combined resources of the community.

These "things" that Whitlam referred to are so often the preserve of State Government: modern schools, state-of-the-art hospitals and community health services, accessible public transport, safe streets, a flourishing artistic and cultural sector, social housing, and our natural environment protected for all to enjoy.

Providing these things—which only the community, not individuals acting alone, can provide—should always be the essential purpose of any State government. It is that essential purpose that led this State's very first Labor Government, Jim McGowen's, to build the garden suburb of Daceyville to provide housing for working-class families. It is that essential purpose that led the Cahill Labor Government to build the Sydney Opera House, and it is that essential purpose that has led this Labor Government to rebuild or upgrade nearly every major hospital in this State since 1995.

I believe that governments should direct resources to overcome disadvantage. The sum of our individual decisions does not add up to the kind of society that we want to live in. I believe in a strong society where we owe obligations to each other. What gives us in the Labor Party moral purpose is our conviction that the fortunate have a responsibility to the unfortunate, that the strong should help the weak.

For seven years I organised and represented workers predominantly working in the social and community services sector. These men and women work with the downtrodden, the excluded and the marginalised. They are ordinary workers who do extraordinary things. They are passionate and dedicated and they are underpaid and undervalued. What does it say about our values as a society when these men and women are among our lowest-paid workers? Community workers make a difference every day. It is time we properly recognised them for the work they do. I am proud of my union, the Australian Services Union, for organising these workers. When justice prevails and community workers win pay equity it will fall to governments to fund our social and community services so that they have the capacity to pay.

I support the struggle by cleaners for justice and dignity at work. Workers in the contract cleaning industry should not have to worry about their jobs every time a different contractor takes over, nor should they miss out on long service leave or lose their sick leave accruals. It is wrong that a person can clean the same school, building or shopping centre for 10 years or more and have no entitlement to long service leave. I welcome the Government's in-principle agreement to establish a portable long service leave scheme for workers in the contract cleaning industry.

For as long as I serve in this place I will stand up for low-paid workers. There are more than 400,000 of them in this State. Workers have the right to receive a wage that allows them to live in modest comfort. Employment may generally be the most reliable way out of poverty but it has not protected all who work. A sizeable number of workers live below the poverty line. I have looked at data on the extent of poverty among households with at least one employed member. In just under one-fifth of households living below the poverty

line someone is in paid employment. These households contain the working poor. There are roughly 130,000 people in working poor households in this State. My concern is that the household incomes of the people at the bottom are not keeping pace with the cost of living.

I do not want to do away with enterprise; far from it. I do not criticise those who generate wealth; we need these people. I do want to see social justice for the marginalised. The gap between rich and poor scars our society. We have enormous wealth in this country. We can eradicate the structural causes of poverty and inequality. We, the prosperous, must not be blind to the great poverty that exists beside great wealth.

Immediately outside this Chamber is an impressive painting, *The Founding of Australia*, by Algernon Talmage. It depicts Governor Arthur Phillip and crew on 26 January 1788. The Union Jack flies between six tree stumps. Only minutes after the arrival of Europeans, the land clearing had begun. I intend to be an advocate in the Parliament and in my party for the environment. I will argue for a greener society—a society where economic prosperity and our quality of life are not underwritten by the needless destruction of our environment.

Those who argue that Labor's embrace of the environment is some newfangled dalliance at odds with Labor tradition are mistaken. Protection of our natural environment is part of the Labor tradition. The very first New South Wales Labor Government protected large tracts of the Sydney Harbour foreshore, including what is today Taronga Park Zoo and Nielsen Park. Bill McKell, the architect of modern Labor in this State, created Australia's great alpine national park, Kosciuszko National Park. McKell toured the high country in January 1942. Over 10 days he travelled by car and on horseback, sometimes camping out, witnessing the effects of more than a century's grazing. McKell acted boldly, reserving the entire area—the first significant extension to the national park estate in the twentieth century.

The Wran Government saved the northern rainforests, massively expanded the Blue Mountains National Park system, banned sandmining in coastal national parks and introduced lead-free petrol. Neville Wran told the 1983 annual conference of the New South Wales ALP:

When we are all dead and buried and our children's children are reflecting on what was the best thing the Labor Government did in the twentieth century, they will come up with the answer, we saved the rainforests.

Bob Carr's Government saved the coastal forests of the north-east and south-east regions. It created over one million hectares of magnificent new parks in western New South Wales and banned the broadscale clearing of native vegetation. The first carbon trading scheme in this country, one of the first in the world, began in New South Wales in 2003. The Carr Government required the State's energy retailers to cap per capita emissions, and forced them into carbon offsets when they exceeded those levels of emissions.

I am delighted that the Keneally Government has acted to protect more than 100,000 hectares of iconic river red gum forest and wetlands. My advocacy for the environment will be underpinned by my fundamental belief in active government as a force for good. Government action is required, and nowhere is that clearer than in the fight against global warming—the economic and, yes, moral challenge of our time.

I am a lucky person. An accident of birth has given me freedom and I have enjoyed the patronage, encouragement and support of so many people. To single out a few would be unfair to the many. To all Labor people who have given me total support, as an officer of the party and now as a member of the Legislative Council, I simply say thank you. I thank the officers and staff of the Legislative Council for the assistance they have afforded me since my election.

I do want to make special mention of my family. Mum instilled in me as a child faith in three institutions—the Labor Party, the Catholic Church and the Eastern Suburbs Rugby League Football Club—and on all three counts I have kept the faith, although I often find myself at odds with the controllers of each of those institutions! I thank my mum for all the sacrifices she made for my sister and for me. My sister and I are the first in our family to gain a university education, thanks to Gough Whitlam.

Becoming husband to Edel is the greatest single honour that has ever been afforded me. She left her home in Ireland to share her life with me. Our magnificent children—Aoife, Niamh and Patrick—have enlarged and enriched our lives. I hope I will always do credit to my family on both sides of the world, to my friends and supporters, and to the party that I am so honoured to represent, the Australian Labor Party. And I hope I will always be true to the people who most need an active government on their side.

## HURSTVILLE EDUCATIONAL PRECINCT PROJECT

**The Hon. MARIE FICARRA** [5.24 p.m.]: I state for the record the serious concerns of hundreds of parents, students and the local community over the Keneally Labor Government's proposed Hurstville educational precinct project. The Government is planning to permanently relocate young girls and boys in years 5 and 6 to the Hurstville Boys Campus, which is a single-sex high school. In a school-wide parents' survey, 89.5 per cent of returned surveys rejected outright the Keneally Labor Government's proposed project. However, the Government, with its usual arrogance, has dismissed the community's concerns and overwhelming rejection of the proposal.

Labor's Minister for Education and Training, Verity Firth, and the member for Kogarah, Cherie Burton, intend to spend \$14 million in capital works on the high school's grounds for what can only be described as a bad social experiment. The project will provide a mere 15 refurbished classrooms for the primary school's more than 1,000 students on the neighbouring boys high school land. The Labor Government just keeps making mistakes and wasting resources. But, importantly, the legacy of Minister Firth and Cherie Burton will be massive disruption to children's education and their early developmental years—and why?

This move is simply to enhance the student population at the Hurstville Boys Campus high school, which currently is 350, so that it can remain sustainable at the expense of years 5 and 6 girls and boys who attend Hurstville Public School. Clearly there is a problem with decreasing enrolments at the Hurstville Boys Campus high school. The clear community message to the Government and to the Department of Education and Training is: "Fix the problem in a consultative and professional manner, but do not add to the problem by ruining Hurstville Public School's wonderful learning potential."

The Department of Education and Training is driving this project based on consideration of facilities, not on best-practice principles of childhood education for Hurstville primary school students—principles that have been established over many years of successful public education in the State, and indeed the nation. Shame on the local member of Parliament, Cherie Burton, shame on the Minister for Education and Training, Verity Firth, and shame on the bean counters of the Department of Education and Training! They have misled parents and the public by claiming that there is insufficient space on the primary school site for the classrooms that students need. That is clearly a lie.

The Hurstville Public School's parents and citizens association believes it is unprecedented in the State for a coeducational primary school to be forced into permanently sharing school grounds with a boys-only high school. Parents are concerned that the project will result in their primary school children being forced to share buildings such as the library, gymnasium, hall and canteen with the high school's older male students. The proposed girls and boys primary toilets will be adjacent to high school classrooms and situated in a high school thoroughfare. The proposed primary playground for years 5 and 6 students is too small. There is no way of keeping the two campuses separate.

Parents of primary school children are concerned that the project will fracture not only the school's community but also its identity. It will also result in separation of the school's older role models from younger students and in separation of siblings, which is a breakdown in the normal, healthy social and educational culture that currently exists. Regular monitoring and buddy programs from kindergarten to year 6 will collapse and the years 5 and 6 students will be placed in an environment in which they are no longer the leaders of their school.

Girls as young as nine are being forced into an entirely male-dominated environment where the only role models are teenage boys, and that is completely unacceptable. That view is endorsed by Dr Helen Watt of Monash University and a host of other child psychologists. The project will result in children being forced to grow up prematurely, emotionally as well as socially, in a high school environment instead of concluding their primary school years in a singly appropriate and nurturing community.

Parents have informed me of their disgust that all this has occurred in so-called consultation with their local member, Cherie Burton, when at a Department of Education and Training presentation on 29 July 2010 Ms Burton stated forcefully that if parents rejected the proposal, the primary school "would get nothing". The parents were told that Ms Burton would refuse to represent parents if they rejected her Government's plans. The Government calls "consultation" an aggressive meeting in July, at which parents were told that the tendering process would begin in August. Shame on Premier Keneally and shame on Minister Firth!

The proposal to put young, preadolescent schoolgirls and schoolboys in a single-sex male-dominated high school is unprecedented. The Hurstville Public School Parents and Citizens Association and parents demand that the Keneally Labor Government immediately halt the high school Department of Education and Training tender process and instead provide a 12-classroom building on the Hurstville Public School grounds to benefit the students, and that further genuine consultation occur with the relevant parents and citizens associations in order to meet the needs of both schools. [*Time expired.*]

### APOSTASY

**Reverend the Hon. FRED NILE** [5.29 p.m.]: I wish to speak on apostasy, the crime or death penalty in the Islamic faith. Last Saturday, 28 August, 600 people gathered in Sydney's Martin Place amphitheatre under the banner "Set My People Free to Worship Me". The 600 people included a number of Muslim converts who have chosen to become Christians. Many other Christians who were present had come to Australia from the Middle East, including Iran, Iraq and Egypt. There were also a number of clergy from the Coptic and other orthodox churches. It was claimed that this protest was the launch of many similar protests that will now be heard in other key cities around the world. Similar rallies were held on Saturday in other nations. The emphasis was on the thousands of Muslim converts who are being persecuted because they have decided to practise their basic human right of adopting a religion of their choice other than Islam, which is seen as a crime—described as apostasy or ridda—and punishable by death in many predominantly Muslim countries.

Although primarily concerned for people living in Middle Eastern countries, those attending included people from Asian nations as well as ordinary Australians concerned for the welfare of those embracing Christianity around the globe. Even a group of Christian bikers arrived on their motorbikes to show their support. The founder and Australian leader of the Set My People Free movement, Kamal Fahmi, said:

We want to advocate that all people, especially Muslims, have the freedom to change faith, to live out and practise their new beliefs.

He went on to say:

We are a non-violent movement that seeks freedom for religious conversion, religious worship, marriage and bringing up children. We believe that it is time to support our suffering Christian brothers and sisters from Muslim backgrounds and raise awareness of the injustices that they face.

There were a number of guest speakers, including the Reverend Dr Mark Durie, an Anglican human rights activist from Melbourne, and Nadia Ghaly, an outspoken journalist and human rights activist. I was also privileged to take part in the meeting. Peter Tadros of the Coptic Church presented reports of persecution taking place at this very time that are mainly ignored by the world at large yet are costing hundreds of lives. The Reverend Peter Rahme spoke of support for the aim of the movement and called for prayer for those undergoing persecution and paying the ultimate price for liberty to worship as they choose. Korean pastor Reverend Sung Kwang Oh led the final prayer time in cooperation with Brian Pickering of the Australian Prayer Network. Mr Pickering called for those present to hold hands in solidarity for those who do not enjoy the privilege of freedom to worship.

The Set My People Free movement is a worldwide network of individuals, churches and organisations working for the freedom of religious converts to live and practise their faith and to experience equality and justice in their home countries. They have issued a petition, which I have been distributing, that calls on our Federal Senate, and the Federal Government to request the Senate, to support all efforts by Muslims to have the apostasy law reformed so that Muslims who choose to leave their faith are no longer liable to any penalty but are free to follow their new conviction without fear in accordance with the United Nations Universal Declaration of Human Rights. The petition goes on to say:

We also ask the Senate to use its influence on governments of countries where punishments for apostasy are part of the legal system to encourage abolition.

That is the abolition of the death penalty for Muslims who convert to other religions, particularly Christianity. I am pleased to support that petition. Even as I make this speech converts to the Christian faith who were formerly Muslims are facing the death penalty in a number of countries around the world, even in Afghanistan, where Australia is helping to promote freedom, in Egypt and in other Arabic Muslim nations. I believe this law should be repealed. [*Time expired.*]

## WHITE RIBBON DAY

**The Hon. TONY CATANZARITI** [5.34 p.m.]: I draw the attention of the House to the many events and proclamations that will be taking place over the next three months in the lead-up to White Ribbon Day, which this year will be on Thursday 25 November. These events will begin with the fifth annual gala dinner, which will be held at the Sydney Town Hall on Wednesday 15 September. Sadly, as many members of this place are aware, duties in this place will preclude many of us from attending that event. I am speaking out early about White Ribbon Day to encourage everyone to get involved. As a community, we need to learn and to recognise the early signs of violence against women and to speak out against any form of violence. It is important that we as a community recognise that violence against women is not limited to one day of the year but is an ongoing problem faced by women and their families throughout Australia on a daily basis.

Sadly, for regional Australia this fact is exacerbated by not only the tyranny of distance but also the fact that we need to make it absolutely clear that abuse against women in any form—physical, mental, psychological, verbal or financial—cannot and will not be tolerated. It is a fact that one in three women report that they have been victims of domestic violence since the age of 15. These actions often leave deep scars, not only for the women involved but also for their families and the community as a whole.

It is simply not good enough to stay in the background. Inaction is complicity, pure and simple. I am sure that everyone in this place will agree that there is no longer a place or a time in Australia where people can say, "It is not my business". It is no longer good enough to shy away from a statement in the pub or club or at a barbecue that suggests that a woman is "asking for it" or that someone will "sort out the missus" if she does not stop nagging. We can and must stand up and let our actions speak for themselves. We can all help make it known that domestic violence cannot and will not be tolerated in this State, or indeed this country.

It is important that we use our time and resources to the best possible effect not only by publicising White Ribbon Day but also by making sure that the publicity continues on every other day of the year, year by year and decade by decade. The onus is on us as community representatives to speak out loud and often. Violence against women takes many forms. The most common by far is domestic and family violence. This does not preclude other forms that need our attention, including sexual assault and date rape. Women do not "ask for it". That is why it is important that men, in particular, stand up and be counted. It is important that we come together to talk about violence against women in the workplace, with our families and friends, at parks, at sports grounds and at any other appropriate time. There are many other things we can do as men to recognise that we are, indeed, the problem. We can go online to take an oath never to commit, excuse or remain silent about violence against women.

I urge everyone in the community to speak out and speak often. Everyone needs to use their networks. Ask yourself if there is something that you can say or do when a situation occurs. Encourage everyone to get behind White Ribbon Day by holding a barbecue, a company breakfast or by organising a community pledge. At the very least, I know that we will all be wearing our ribbons. We should also ensure that members of the community have the best possible chance to purchase ribbons. Violence against women is against our laws and our community fabric. It is not acceptable on any terms. We need to show that we are ready to commit to educate. We need to ensure that we eradicate insidious attacks on our spouses, families, friends and members of our communities—the communities we represent. [*Time expired.*]

## LOCAL HOSPITAL NETWORKS

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [5.39 p.m.]: Today I raise the Government's proposed local hospital networks—a plan that has the vast majority of people in Dubbo and the western region quite rightly angry. The proposal would see Dubbo lumped into the Central West local hospital network, which is made up of 40 communities, including Orange and Bathurst. After years of deriding the New South Wales Liberal-Nationals' plan to abolish Labor's failed area health services, the Keneally Government has turned around and done just that. But the problem with Labor's theft of our plan is that the Government rushed into it without taking into account a key problem—the sheer size of the Greater Western Area Health Service, which is to be replaced with a local hospital network stretching from the Central West to the Queensland border. Desperate to get re-elected, Labor has rushed into the process of drawing up these unrealistic boundaries.

The vastness of western New South Wales was summed up well by Bourke Mayor Andrew Lewis when he faced a 12-hour, 940-kilometre journey home after pleading with Minister Tebbutt not to include Dubbo in the Central West local hospital network. We have argued consistently for the establishment of smaller health

districts oversighted by boards, comprising local health professionals and members of the community, with understanding and commonsense. Doctors and nurses involved in the so-called consultation proposal have told the New South Wales Liberal-Nationals that it was more like a telling tour than a listening tour. It is vital that the consultation process is done properly, and that is why we will be conducting a forum in Dubbo this month to undertake that consultation—a step that the Government clearly failed to do when setting up the local hospital network boundaries. I will quote part of the submission from a respected Dubbo citizen, Mr Brian Semmler, who has worked in health management for 34 years. Mr Semmler started by saying that he was extremely excited at the initial prospect of both the State and Federal governments' proposals to establish local hospital networks. He further stated:

However, while applauding your Government's decision in principle to move promptly in this matter, on reading your draft proposal regarding the size of the networks in the Regional and Rural areas of the State, that excitement very quickly dissipated, and I cannot express too strongly my disappointment at the proposed extent of the LHN shown as Central West.

The Government's discussion paper talks about the local hospital networks being self-sufficient in, for example, "services such as cancer services, cardiac services, stroke services, paediatric surgery, and mental health services". That is precisely why Dubbo could be locked out of developments in providing cancer services et cetera—simply because they will be provided out of Orange. It is fair to argue that western New South Wales residents will largely bypass Orange because it is not among the western region's "natural communities of interest". The Orana Regional Organisation of Councils [OROC], which comprises the Bogan, Bourke, Brewarrina, Cobar, Coonamble, Dubbo, Gilgandra, Narromine, Walgett, Warren, and Warrumbungle shire councils, is just one body fiercely opposed to the decision. The Chair of OROC, Dawn Collins, said:

The proposed Local Hospital Network boundary will see the Orana region swallowed up by Bathurst and Orange, which will not allow the National Health Reform to benefit the Orana region. These centres have no community of interest with Dubbo or the Orana region.

OROC, among others, argues that the Orana region's community of interest is Dubbo—and that is obvious. I note that in today's Dubbo *Daily Liberal* the Greater Western Area Health Service boss, Danny O'Connor, is desperately trying to push the idea that Dubbo will be better off under this proposal. There is no doubt that he is on his own with that view. However, to be fair, as the Government-appointed head he probably had no choice. I am disappointed by the comments of the Chair of the Greater Western Area Health Service Advisory Council, Dr Steve Flecknoe-Brown, that there would be "finetuning of the plan, rather than wholesale changes". He is going against the flow of concern by saying that Dubbo will benefit from the plan. This is the man appointed to represent the health concerns of the Dubbo community. I strongly urge the Minister and the Government to take on board the huge concerns of the New South Wales Liberal-Nationals, and indeed the people of Western New South Wales. [*Time expired.*]

## ISLAMOPHOBIA

**Reverend the Hon. Dr GORDON MOYES** [5.44 p.m.]: As the parliamentary leader of Family First New South Wales, I will speak tonight about Islamophobia. I believe it is of paramount importance to discuss with the Parliament how social and religious prejudice, particularly against Arabs and Muslims, has begun to shape our country into a new white Australia. In Australia we have a history of antagonism towards Chinese, German and Italian immigrants, and latterly towards refugees from South-East Asia and Africa. The problem lies not with the new settlers but with those who cannot cope with confronting customs, dress and colour. Various practices by Islamist countries that are contrary to Western democracy deserve to be condemned, but what happens in these countries must not be used to condemn Australian Arabs or Muslims. I direct members to a statement by Alfred Deakin, the chief architect of the Immigration Restriction Act 1901, who said:

It is not the bad qualities, but the good qualities of these alien races that make them so dangerous to us. It is their inexhaustible energy, their power of applying themselves to new tasks, their endurance and low standard of living which make them such competitors.

It took more than 50 years for Australia to begin to shift towards significantly increasing immigration by non-Europeans. It was not until 1973, when the Whitlam Government implemented a series of amendments, that racial aspects of the immigration law were amended to create a more open and multicultural Australia. Australia's new official policy on racial diversity is to "build on our success as a culturally diverse, accepting and open society, united through a shared future". Indeed, more than 15 per cent of the Australian population now speak a language other than English in the home. The most commonly spoken languages are Italian, Greek, Cantonese and Arabic. I give this history because of the recent negatively driven media hype and obsession associated with Islam, Muslims, and people with different customs and dress codes that have choked our society into forming a new white Australia policy based on racism and Islamophobia.

Islam and its place in Australian society have been the subject of much public debate, and there is a great deal of misunderstanding about Australia's Muslim communities. Some 340,000 people, or 1.7 per cent of the Australian population, are Muslim by religion. More than one-third of them are Australian born. In some cases their families have been in Australia for many generations. The Human Rights and Equal Opportunity Commission said that participants identifiable as Arab or Muslim by dress, language, name or appearance have told of being abused, threatened, spat upon, assailed with eggs, bottles, cans and rocks, punched and even bitten.

The report also found that most incidents raised in the consultations were not reported to police or other government authorities or even services, due to fear of victimisation. Recently I was a guest of the Australian Muslim Women's Association and I was horrified to hear Australian women and citizens speaking of their experience in the streets of Australian towns where complete strangers, believed not to be just random attacks, assaulted them in so many different ways. A recent study on racist attitudes conducted by the University of New South Wales found that one in eight Australians interviewed admitted that they were prejudiced, particularly towards Muslim Australians.

The media plays a crucial role in exciting and legitimising these criminal acts. Ghali Hassan writes that anti-Muslim hatred is a best seller in Australia. Islamophobia is a serious threat to the Australian society. It is reminiscent of anti-Jews hatred in Europe in recent history. Dr William Jonas, Acting Race Discrimination Commissioner, said that we need to confront the fears and uncertainties we have post September 11 and to guard against prejudice and tolerance. Protecting the core multicultural values in our society is a very good reason for action. We need to ensure that all Australians—Arabs and Muslims included—have the opportunity for equal participation in Australian society. Let us pray that we too can emulate that attitude. [*Time expired.*]

### MYALL CREEK MASSACRE

**The Hon. CHRISTINE ROBERTSON** [5.49 p.m.]: I was honoured to take part in this year's commemoration of the Myall Creek Massacre, which took place on Saturday 12 June at the Myall Creek Memorial site, 30 kilometres from Bingara. The commemoration is organised each year by the Myall Creek Memorial Committee, which is made up of a broad range of community members, Aboriginal, non-indigenous, church representatives amongst others. Many members would be aware of the Myall Creek Massacre, which occurred on 10 June 1838, as it has been the subject of a number of parliamentary speeches. Its annual commemoration is a worthy reminder of the fact that murders and even massacres of Aboriginal people by white men were perpetrated many times from the time of European settlement into the twentieth century—an horrific aspect of our history. Less frequent attacks on whites by Aboriginal people were often the cause of outrage.

In the case of Myall Creek, 28 unarmed Wirrayaraay elderly men, women and children who were camped at Henry Danger's cattle station were rounded up by a gang of 11 local stockmen, and butchered. The Aboriginal remains were later burnt. This atrocity is the most well-documented among the sad and murderous history between whites and Aboriginal people in our country. There is evidence that similar massacres occurred in that area alone during 1838. Most of the white men in this case were convicts, although a ringleader is believed to have been a squatter. What makes Myall Creek extraordinary is that the manager of the cattle station where the massacre occurred unprovoked actually reported it to the local magistrate who investigated the incident. Eventually, Governor Gipps urged the inquiry to seek justice, and seven of the 11 perpetrators of the massacre were hanged on the charge of the murder of a boy called Charley. That was the first time white men were brought to justice for murdering Aborigines. Aboriginal murderers of white men had long been punished for their crimes. The guilty verdict for the stockmen at Myall Creek caused outrage amongst the colony. It was, however, evidence of decency at some levels of the colonial government and among some of the white settlers.

The Myall Creek Massacre commemoration this year was a very moving experience, as I am sure it is every year. The overwhelming sentiments from the commemoration were of re-telling the story so that it is always remembered, acknowledging the awful events that occurred and developing a strong sense of healing and reconciliation for now and into the future. The ceremony brought together descendents of those who were murdered, represented by Sue Blacklock, Elizabeth Connors and Lyall Munro, among many others.

There were also descendents of the murderers, Beulah Adams, Des Blake and granddaughter Hannah Scully, to name a few. Inverell High School students, both indigenous and non-indigenous took part in making pledges towards reconciliation. At the lighting of a red candle, symbolising the blood that was shed on the slopes below the memorial site, the gathering all spoke in unison:

We acknowledge that we are all heirs in different ways to this history with its injustices and misunderstandings and struggles.

We are grateful that the Parliament of our nation has apologised for past mistreatment suffered by so many, but acknowledge we still have a long way to go in building a society where people have comparable opportunities to develop their innate potential.

We are here today to commit ourselves again to the hard work of reconciliation between our peoples. We remember the past so that we may understand the present.

We commit ourselves to the tasks of the present, so that our children and grandchildren may have a better tomorrow.

I pay tribute to all involved in the commemoration, especially the Myall Creek Memorial Committee and the Friends of Myall Creek. Their work on achieving the Myall Creek Memorial, which was dedicated in 2000, is particularly worthy as it has been recognised with awards and is now listed on the National Heritage Register. I will continue to work with the Friends of Myall Creek on their plans to establish a cultural and educational centre at the memorial site. In a fitting tribute, the local Wirrayaraay or Wolroi tribe of the Gamilaroi say "Ngiyani winangay gamunga"—we remember them. I would like to conclude by quoting a song we all sang, called *Myall Creek*, by Neil Murray:

A descendant of the murderers, a descendent of the slain  
met at Myall Creek and sisters they became  
just goes to show what you can do  
when you forgive what's been done  
turn darkness into light  
fear into love

You got to let go of all hatred  
if you know what's good for you  
you got to own up to the truth  
no matter how it proves  
this beautiful land don't want no bad thing in here  
break open all the silence fill it up with tears

Join up all your hands, join up all your hands  
Join up all your hands spread out on the land  
and no more weep from Myall creek  
make joy from sorrow love from pain

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

**Motion agreed to.**

**The House adjourned at 5.54 p.m. until Thursday 2 September 2010 at 11.00 a.m.**

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